

DOCUMENT RESUME

ED 123 701

95

EA 008 229

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TITLE Programs for Educational Equity: Schools and Affirmative Action.
INSTITUTION Office of Education (DHEW), Washington, D.C.
REPORT NO DHEW-OE-75-03001
PUB DATE 75
NOTE 59p.
AVAILABLE FROM Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Stock No. 017-080-01457-2; \$1.20)

EDRS PRICE MF-\$0.83 HC-\$3.50 Plus Postage.
DESCRIPTORS *Affirmative Action; Definitions; *Educational Discrimination; Elementary Secondary Education; *Employment Practices; *Federal Legislation; *Guidelines; Post Secondary Education; *Program Development; Racial Discrimination; Religious Discrimination; Sex Discrimination

IDENTIFIERS Civil Rights Act 1964; Education Amendments 1972 Title IX

ABSTRACT

This publication is a revised version of a monograph that was originally prepared to provide background information for a 1974 conference on affirmative action in employment and education. In its present form, it is intended to provide technical support for schools in their efforts to implement Title VI of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972. Although the monograph focuses specifically on elementary and secondary schools, most of its content can be applied to postsecondary institutions as well. Separate short sections discuss the origin and foundation of affirmative action in employment, the need for affirmative action in educational employment, instituting an employment affirmative action plan, elements of an employment affirmative action plan, affirmative action in educational programs, foundations of affirmative action in educational programs, initiating an educational program affirmative action plan, and elements of educational program affirmative action. In addition, the appendix contains sample affirmative action plans for local education agencies, an employer's checklist on equal employment opportunity, and guidelines for evaluating affirmative action plans. (JG)

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Programs for Educational Equity: Schools and Affirmative Action

U.S. Department of Health,
Education, and Welfare

• Office of Education

EA 008 229

**PROGRAMS FOR EDUCATIONAL EQUITY:
SCHOOLS AND AFFIRMATIVE ACTION**

**Shirley McCune
and
Martha Matthews**

**U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
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U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON: 1975

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20540
Price \$1.20, Stock Number 017-080-01437-2

Foreword

The National Institute of Education (NIE) was established in 1972 to support the policy of the United States to provide every person an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, national origin, or social class.

Toward that goal, the NIE sponsored a National Conference on Schools and Affirmative Action during November 1974 in Alexandria, Va. The objective was to provide an opportunity for dialogue among three groups that are crucial in the delivery of quality education for all learners—teacher practitioners who work daily to provide quality education, staff from State departments of education who represent the front lines of support for educational programs, and Federal officials whose activities must support and extend the efforts of State departments and practitioners. The conference focused on concepts of affirmative action in educational programs and also on affirmative action in employment.

A monograph on equity in educational programs was developed for the conference. More than 1,000 copies of this monograph were distributed in 25 States for training teacher and State department staff in fair policies and practices regarding sex and race in schools. It also has served as resource material in the State legislatures for developing regulations and laws targeted at program and employment equity.

In early 1975, the Women's Program Staff of the U.S. Office of Education (USOE) supported slight

revisions in the conference monograph which resulted in this monograph. It focuses on education agencies providing K-12 services; however, the principles can be applied to postsecondary institutions. *Programs for Educational Equity* is intended to provide technical support to the schools in their implementation of title VI of the Civil Rights Act of 1964, and title IX of the Educational Amendments of 1972.

Given the mission of the NIE to further equity in education and the mandate of the USOE to provide technical assistance in implementing regulations that concern program affirmative action, it is fitting that the NIE and USOE join in conveying *Programs for Educational Equity* to the American education community.

We thank our colleagues in other Federal offices and agencies who provided comments on both manuscripts. To the authors, Shirley McCune and Martha Matthews, we are especially indebted.

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June 1975

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Introduction

The term "affirmative action" first entered the vocabulary of most educators as a general reference to corrective measures for reducing race and sex discrimination in private employment. The passage of significant Federal laws in 1972, however, made affirmative action a vital concern for educators and persons interested in equality of educational opportunity and employment.

This legislation makes explicit the responsibility of the education community (both public and private) to provide and to maintain programs and institutions which observe and support basic human and civil rights and principles of nondiscrimination. The principles articulated in these laws have evolved from a 200-year refinement of basic Constitutional guarantees as defined through State and Federal statutes, legislative histories, and judicial decisions.

The term "affirmative action" is currently used in at least three ways:

1. In its broadest context, the term affirmative action refers to the *concept* that discrimination in employment may be effectively eliminated only through the systematic identification and modification of institutional structures that maintain and perpetuate inequality.

2. As used by the Federal Government, affirmative action refers to employer initiated development of a set of specific result-oriented procedures to ensure that job applicants and employees are treated without regard to race, color, religion, sex, or national origin. The term usually implies action taken to overcome the effects of conditions which have resulted in limited participation of minorities and women. This activity, correctly labeled "affirmative action," is distinguished from corrective or remedial action, which is taken by institutions or agencies as a result of the identification of discrimination through required institutional self-evaluation or when mandated after a formal finding of discrimination by a Federal or State agency or court.

3. A general usage of the term refers to the methods or *technology* by which specific result-

oriented procedures aimed at the identification and correction of discrimination are developed and applied.

Among these three categories the manner of initiation of action and the scope of activities vary according to the requirements of the situation; however, the technology is similar whether the action is affirmative, corrective, or remedial.

In this monograph, the term affirmative action is used in the latter sense—to refer to the technology which may be used affirmatively, correctively, or remedially. It is through the application of this technology that programs for educational equity may be actualized. Although the term is most frequently used in reference to employment affirmative action, it will also be extended to describe the systematic application of similar concepts and procedures to the identification and remediation of sources of discrimination in the educational program of an agency or institution. In this sense, the methodology provides a procedure for institutional self-evaluation and the initiation of corrective actions.

Affirmative action begins with the development and implementation of a plan which provides a mechanism and procedures for (a) systematic identification of sources of discrimination in an employment system, (b) specification of corrective measures, and (c) the development and maintenance of procedures for ongoing monitoring, evaluation, and modification of that plan. An affirmative action plan is a set of specific and result-oriented policies, guidelines, and procedures which commits an employer to apply good faith efforts to eliminate and prevent discrimination and the current effects of past discrimination.

Perhaps no term has as many connotations as "affirmative action." Some civil and human rights activists describe it as a "cop out" method for pretending to deal with the problem of discrimination, as an inadequate strategy for change, or as another delaying tactic. To other individuals it represents "reverse discrimination," "quotas" in employment or admission, or an institutionalized system of

preferential treatment. Still others view affirmative action as a potentially effective method for reforming educational employment policies and programs.

Under Executive Order 11246 all Federal contractors are required to observe nondiscriminatory employment policies; those holding contracts of \$50,000 or more are required to develop affirmative action plans for employment. Further, Federal agencies are provided the authority to monitor and investigate Federal contractors for possible discrimination against minorities and women. A procedure for filing complaints against contractors by aggrieved individuals is specified.

The first impact of this order and the introduction of affirmative and corrective action concepts into the educational community began in the late 1960's within higher education institutions holding Federal contracts. Although affirmative action in the private sector had been largely directed toward providing equal employment opportunities for Blacks and other minorities, a primary impetus for affirmative action in higher education came from

women's groups. More than 300 complaints of sex discrimination were made against various universities. As a result, institutions of higher education began to undertake corrective and affirmative action.

Additional pressure was brought to bear on educational institutions and local education agencies with the passage of antidiscrimination statutes in 1972. This legislation provided a basis for affirmative action in local education agencies as well as institutions of higher education.

At present, the technique of affirmative action is a practical, equitable method of confronting discrimination found in the employment practices and policies and the educational program practices and policies of educational institutions and agencies. This monograph provides additional material about the basis and evolution of affirmative action, the elements of affirmative action plans, and specific information that will assist in the development of plans for your institution or district.

Origin and Foundation of Affirmative Action in Employment

Many believe that affirmative action as a tool for the attainment of equal employment opportunity is of recent origin. The beginnings of this concept, which has now become an integral part of personnel management, however, may be traced back to the 1940's. Affirmative action has evolved from numerous attempts to eliminate discrimination in Federal employment and Federal contracts. At present, six bodies of law and precedents support affirmative action in employment—

- Federal executive orders
- Federal antidiscrimination laws
- State antidiscrimination laws
- Judicial decisions
- Laws regulating collective bargaining agreements
- Institutional policies prohibiting discrimination.

The relevance of one or more of these to a specific instance is determined by a number of variables. The following sections discuss each of these laws and precedents in order to provide a general framework for considering affirmative action.

FEDERAL EXECUTIVE ORDERS

The origin of efforts to reduce discrimination in employment are found in Federal executive orders prohibiting discrimination in companies holding Federal contracts. Black civil rights leaders worked for years to move the Federal Government toward a policy of nondiscrimination. The first executive order prohibiting discrimination was issued by President Franklin D. Roosevelt in June 1941. Successive orders attempted to strengthen and extend coverage of the prohibition against discrimination. Table 1 provides a chronology of executive orders and summarizes their evolution.

The first executive orders were general pronouncements prohibiting discrimination in the selection and hiring of employees. Ancillary per-

sonnel policies and actions were gradually added as it became apparent that the initial orders had limited impact. Original efforts to prevent discrimination in employment were based on an assumption that simply opening of employment opportunity in hiring would eliminate discrimination.

By the 1960's it became clear that discrimination was deeply imbedded in the social structure of our society and change would not occur without more deliberate commitment and specific action.

Thus, by 1960, the view was developing that *passive nondiscrimination was not enough*. Discrimination, it was recognized, could exist and flourish in the simple absence of positive or affirmative action.¹

In 1961, with this recognition, President John F. Kennedy issued Executive Order 10925 which provided both penalties for noncompliance and a substantial budget for enforcement of the order. Affirmative action now had its mandate and required contractors to actively *recruit* minorities to fill positions. Executive Order 10925 was also the first order with specific enforcement provisions.

President Lyndon B. Johnson's Executive Order 11246 expanded the requirements for affirmative action. It established the Office of Federal Contract Compliance (OFCC) in the U.S. Department of Labor which was to provide an experienced corps of Federal employees trained in the implementation of affirmative action.²

In 1975, we find the OFCC continuing to tighten and strengthen compliance procedures. Gradually, a technique for developing affirmative action plans, monitoring such plans, and investigating compliance is being elaborated. For example, Revised Order 14, issued in May 1974, provides an outline of the requirements for work-force utilization analysis, a critical procedure for developing effective affirmative action plans.

At present, Executive Order 11246 as amended by Executive Order 11375 serves as the primary

¹ *Affirmative Action: The Unrealized Goal*. Washington: The Potomac Institute, Inc., 1973, p. 7.

² OFCC's responsibility for the enforcement of Executive Order 11246 within educational agencies and institutions is delegated to the Office for Civil Rights, U.S. Department of HEW.

Table 1
Chronology of Federal Executive Orders ¹

Measure	Requirement/Action	Date
1. Executive Order 8802 Pres. Franklin D. Roosevelt	Established a Committee on Fair Employment Practices to investigate discrimination complaints against companies holding defense contracts.	June 1941
2. Executive Order 9346 Pres. Franklin D. Roosevelt	Expanded Committee's jurisdiction to "war industries" and specified contract clause of "nondiscrimination in hire, tenure, terms or conditions of employment or union membership in all government contracts."	May 1943
3. Executive Order 10308 Pres. Harry S. Truman	Established Committee on Government Contract Compliance to investigate complaints and supervise the actions of agencies responsible for nondiscrimination in Federal contracts.	August 1953
4. Executive Order 10479 and Order 10557 Pres. Dwight D. Eisenhower	Established new Government Contract Compliance Committee chaired by Vice-President. Expanded nondiscrimination obligations of the employer to "employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay and other forms of compensation and selection for training." Employers required to post notices of obligations.	September 1954
5. Executive Order 10590 Pres. Dwight D. Eisenhower	Established President's Committee on Government Employment Policy which became involved with training and motivation of minority group workers.	January 1955
6. Executive Order 10925 and Order 11114 Pres. John F. Kennedy	Established President's Committee on Equal Employment Opportunity which was made responsible for eliminating discrimination in Federal Government employment. First order with enforcement provisions. Extended authority to federally assisted construction and provided for contract debarment for noncompliance. EO 11114 extended coverage to discrimination on the basis of sex.	1961
7. Executive Order 11246 and Order 11375 Pres. Lyndon B. Johnson	Assigned contract compliance to Secretary of Labor, who established Office of Federal Compliance. Required that all contractors (over \$10,000) take affirmative action and required that such action cover all of contractor's operations. Executive Order 11375 amended EO 11246 to prohibit discrimination on the basis of sex and included affirmative action to ensure hiring without regard to sex. Specified nondiscrimination in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training.	September 1965 October 1967 Effective 1968
8. Executive Order 11478 Pres. Richard M. Nixon	Amended EO 11246 by prohibiting discrimination based on race, sex, color, religion, or national origin in Federal employment. Directed executive departments and agencies to establish and maintain affirmative employment programs.	August 1969
9. Order No. 4 and Revised Order 4 for Executive Order 11246	Extended specification of requirements for affirmative action plan and penalties and procedures for noncompliance.	1970
10. Office of Federal Contract Compliance Guidelines for Executive Order 11246	Specified requirements for affirmative action which included identification and analysis of "problem areas," prescribed use of goals and timetables. Detailed penalties and procedures for noncompliance.	December 1971
11. Revised Order 14 for Executive Order 11246	Further specified requirements for an affirmative action plan, procedures for noncompliance review, and citizen's access to information.	May 1974

¹ Based on materials developed in *Affirmative Action: The Unrealized Goal*. Washington: The Potomac Institute, Inc., 1973.

coverage of those educational agencies and institutions that receive Federal contracts. The provisions of this executive order are as follows:

Executive Order 11246
as amended by EO 11375

Executive Order 11246 prohibits employment discrimination on the basis of race, color, religion, national origin, or sex in agencies or institutions with Federal contracts of over \$10,000. The term contract is interpreted in the broad sense to include

so-called "grants" that involve benefit to the Federal Government. Institutions covered under the executive order must observe nondiscriminatory practices in hiring, discharge, promotion, wages, benefits, training, and all other conditions of employment.

In addition, institutions with Federal contracts of \$50,000 or more and 50 or more employees are required to develop written affirmative action plans with numerical goals and timetables. Although the contract may involve only one organizational unit

of an agency or institution, the affirmative plan must cover all employees of the institution.

Enforcement of this executive order and basic policy decisions stemming therefrom are the responsibility of the Office of Federal Contract Compliance (OFCC) of the U.S. Department of Labor. OFCC has designated HEW as the agency responsible for the enforcement of the regulation as it affects education agencies or institutions. Complaints of violations of this executive order may be made to:

Office for Civil Rights
U.S. Department of Health, Education, and
Welfare
Washington, D.C. 20201

or to a regional office of HEW.

Complaints may be filed under the executive order by individuals or by groups or organizations on behalf of a class or group of employees, such as racial or ethnic minorities or women. The strength of any complaint is increased when it can be documented that the discrimination is a continuing action against such a group or class.

Employers covered under the executive order are required to maintain specified records to permit determination of whether violations have occurred. HEW may conduct periodic reviews of part or all of an institution even when no violation has been reported. Pre-award reviews of institutions or agencies with contracts of over \$1 million are mandatory.

When a complaint is filed, an investigation is made. If a violation is found, the Government may force compliance with the regulation by delaying issuance of new contracts, revoking current contracts, and/or disqualifying the institution from eligibility for future contracts. Back pay may be awarded under the executive order to those employees not so protected by other laws.

The institution involved is usually given the name of the person or group filing the complaint. However, the institution is prohibited from discharging or discriminating against any employee or job applicant making a complaint, assisting an investigation, or instituting legal action. Investigative proceedings are kept confidential by the Government, but the institution and the aggrieved party may be disclosed.

FEDERAL ANTIDISCRIMINATION LAWS

Four Federal laws constitute the primary employment antidiscrimination legislation for educational agencies and institutions. These laws prohibit discrimination in recruitment, selection, hiring, promotion, compensation, training, and fringe benefits of employees. (Title VI of the 1974 Civil Rights Act, the first Federal antidiscrimination law to cover education agencies and institutions, exempts employment and will be discussed in a later section on affirmative action in the area of educational programs.)

Title VII of the Civil Rights Act of 1964

as amended by the Equal Employment Opportunity Act of 1972

Title VII of the Civil Rights Act prohibits discrimination in employment on the basis of race, color, religion, national origin, or sex. It provides comprehensive prohibition of discrimination in employment and is the basis of a body of precedents and litigation. Guidelines issued by the Equal Employment Opportunity Commission under title VII provide substantial specification as to which employment policies and practices shall be considered discriminatory. Judicial interpretation of title VII has further defined both the nature of discrimination and the remedial actions necessary to correct discrimination.³

All institutions with 15 or more employees, including State and local governments, school systems, and labor organizations, are covered under the amended act. Religious institutions are exempt to the extent that they may give preference to employees of a particular religion. Title VII prohibits all discriminatory practices in all conditions of employment such as:

- Recruitment, selection, assignment and transfer, layoff, discharge, and recall
- Opportunities for promotion
- In-service training opportunities
- Wages and salaries
- Sick leave time and pay
- Vacation time and pay
- Overtime work and pay
- Medical, hospital, life, and accident insurance
- Retirement plans and benefits
- Other staff benefits

³ See section on Judicial Decisions.

Complaints of discriminatory employment practices that violate title VII are made to:

Equal Employment Opportunity Commission
2401 E Street, NW.
Washington, D.C. 20506

or to a district EEOC office.⁴ The complaint may be initiated by a letter outlining the nature of the complaint and documenting the charge if possible. Complaint forms will then be provided by the district EEOC office. EEOC will notify the employer against whom the complaint was filed within 10 days and make an investigation. If discriminatory policies or practices are found, EEOC will attempt informal conciliation. Should this attempt fail, EEOC or the U.S. Attorney General may file suit. The aggrieved party may also initiate a suit if action has not been taken after obtaining a right-to-sue letter from EEOC. The court of jurisdiction may then order such actions as the discontinuance of unlawful practices, appropriate corrective or remedial action, reinstatement of employees, and/or the awarding of back pay.

The employer is required to maintain specified records relevant to the determination of whether possible violations have occurred for a period of 3 years. In addition, a reporting form must be submitted by local education agencies and institutions of higher education. The form for local education agencies, EEO 5,⁵ is submitted every October. A similar reporting form, EEO 6, will be required from institutions of higher education as of November 1975.

Persons or organizations filing complaints under title VII are identified when the employer is notified of the complaint. The employer is prohibited from discharging or discriminating against an employee because he or she has filed a complaint, assisted an investigation, or initiated court action. Charges are not made public by EEOC, nor is any of the conciliation process divulged. When a court action becomes necessary, the identity of the parties involved becomes a matter of public record. The complainant and the institution are not bound by the confidentiality requirement.

If a finding of discrimination is made, required remedial or corrective action may take two forms: (1) compensation for discrimination to aggrieved employees (e.g., back pay), and/or (2) the identi-

fication and modification of discriminatory practices and policies.

Equal Pay Act of 1963

as amended by the Education Amendments of 1972
(Higher Education Act)

The Equal Pay Act prohibits sex discrimination in employee salaries and fringe benefits. All workers, including those in professional, executive, and administrative positions in education, are currently covered by the Equal Pay Act. The Act provides that a man and woman working for the same institution under similar conditions in jobs requiring substantially equivalent skill, effort, and responsibility must be paid equally. Job titles and assignments do not have to be identical. *Bona fide* merit and seniority systems that result in pay differentials are allowed, so long as the systems themselves do not discriminate on the basis of race or sex.

Employers are required to maintain specified records relevant to the determination of whether possible violations have occurred. The Federal Government has the power to review all relevant records periodically even if no violation has been reported.

The complaint procedure is relatively informal. Complaints may be filed with:

Wage and Hour Division
U.S. Department of Labor
Washington, D.C. 20210

or to the nearest regional office of the Department of Labor. A complaint may be made in person, by letter, or by telephone. The identity of the complainant is not revealed by the Government during the investigation process; however, neither the employer nor the complainant is bound by the confidentiality requirement.

The employer is first given opportunity for voluntary compliance with the law. More than 95 percent of all EPA investigations are resolved quickly in this manner. If the employer does not comply voluntarily, the Secretary of Labor or the aggrieved party may file suit. The identities of the employer and the complainant then become a matter of public record. The court may order the employer to discontinue unlawful behavior, increase salaries, and pay back wages and interest. Employers are prohibited from discharging or dis-

⁴ See appendix for listing of district offices.
⁵ See appendix for EEO-5 form.

criminating against any employee who has made a complaint, assisted with an investigation, or initiated court proceedings.

The Equal Pay Act also prohibits labor organizations from causing or attempting to cause employers to discriminate on the basis of sex. Complaints and suits may be filed against labor organizations that violate this provision.

Title IX of the Education Amendments of 1972 (Higher Education Act)

Title IX states, "No person . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." Title IX is patterned after the race discrimination provisions of title VI of the 1964 Civil Rights Act.^{*} It differs from title VI's coverage in that it also covers prohibition of discrimination in employment on the basis of sex.

Nearly all local education agencies and institutions of higher education are covered. Religious institutions are exempt if application of title IX is not consistent with their religious tenets. Military schools are exempt if their primary purpose is to train individuals for the U.S. military service or the merchant marine.

Complaints of sex discrimination in educational programs or educational employment should be made to:

Office for Civil Rights
U.S. Department of Health, Education, and
Welfare
Washington, D.C. 20201

or to the nearest regional HEW office. If possible, complainants are kept confidential by the Government. The institution and the complainant are not required to maintain confidentiality.

The regulation for title IX has been signed by President Ford. It went into effect July 21, 1975, after congressional review. The regulation provides general prohibition of sex discrimination in employment. It is unique in that institutions and agencies are required to carry out self-evaluation of policies, practices, and the effects thereof concerning admission of students, treatment of students, and employment of both academic and nonacademic personnel within 1 year of the effective date of the regulation. If discrimination is identified, policies and practices

must be modified and appropriate remedial steps must be taken to eliminate the effects of any discrimination which resulted from these policies and practices.

Institutions must maintain records of such modifications and actions for 3 years. Although affirmative action is not required under Title IX, a recipient may take affirmative action to overcome the effects of conditions which have resulted in limited participation by persons of a particular sex. Many of the techniques outlined in this monograph are applicable to the conduct of institutional self-evaluation and the institutions of corrective action as required under the title IX regulation.

The Government may force an agency or institution to comply with title IX by deferral of new funds pending hearing by HEW, revoking current funds, and/or disqualifying the institution from eligibility for future funds after hearing. In certain cases, HEW may also ask the Department of Justice to bring suit.

Title VII (Section 799A) and Title VIII (Section 845) of the Public Health Service Act

Titles VII and VIII of the Public Health Service Act state that institutions receiving Federal funds under this Act for their health personnel training programs may not show sex discrimination in admissions or in employment practices relating to employees working directly with applicants or students. Every institution receiving or benefiting from a grant, loan guarantee, or interest subsidy to its health personnel training programs or receiving a contract under title VII or VIII is covered.

Complaints of title VII and VIII violations should be made to:

Office for Civil Rights
U.S. Department of Health, Education, and
Welfare
Washington, D.C. 20201

or to the nearest regional HEW office.

Schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, allied public health personnel, and nursing are specifically mentioned in the legislation. The intent of the legislation is to break down the institutional barriers that restrict the participa-

^{*} This Act will be discussed in a subsequent section on affirmative action in educational programs.

tion of both males and females in areas traditionally dominated by one sex.

Regulations for the enforcement of the law have not been finalized. In view of the precedents developed through other antidiscrimination legislation the following procedures may be anticipated.

The Federal Government may investigate educational institutions periodically as well as in response to complaints. In some cases, units of the institution related to health personnel training programs which do not receive direct Federal assistance may also be investigated.

When complaints are received, the identity of the complainant will be kept confidential if possible. Neither the institution nor the complainant will be required to maintain confidentiality. The institution will be prohibited from discharging or discriminating against anyone making a complaint, assisting an investigation, or instituting proceedings.

If, upon review or investigation, it is determined that an institution maintains discriminatory practices, the Federal Government may defer new awards pending hearing, revoke current awards, and/or disqualify the institution from eligibility for future awards after a hearing.

STATE ANTIDISCRIMINATION LAWS

State laws are typically identified as fair employment practice laws, and usually prohibit discrimination on the basis of race, color, national origin, religion, sex, and age. Thirteen states also prohibit discrimination of handicapped persons.

The first State fair employment practice law was passed in New York in 1945. The New York law is significant in its comprehensiveness; a majority of the 36 other comprehensive State fair employment laws are patterned after this law as was the Federal Civil Rights Act of 1964.⁷ Several States have weak or more limited legislation.⁸

Most State acts establish commissions for their enforcement. These commissions are generally composed of 3 to 12 commissioners, usually appointed by the Governor with legislative approval.

Rather standardized procedures have been developed for the filing of charges or the initiation of discrimination complaints. Most laws require that

an individual or representing attorney file written charges with the commission. A few of the more progressive State laws allow commissions to initiate actions upon learning of discriminatory practices. After a complaint or charge has been filed, a commission investigates the complaint. A conference may be called between the involved parties. Effort is made to reconcile differences between the parties without resorting to legal action. If this fails, the commission may order a public administrative hearing.

During the hearing phase of the complaint process, the commission has the power to issue subpoenas and launch a full-scale investigation. If a finding of discrimination is made, the commission has the power to issue cease and desist orders. Provisions are usually made to order hiring or reinstatement of an employee with or without back pay, and in some instances damages may be awarded.

The clear prohibition of employment discrimination in a growing body of State laws provides another basis for affirmative action. An emerging trend is the passage of State legislation specifically requiring affirmative action in education institutions and agencies. Such laws provide greater involvement of State agencies in the enforcement and monitoring of affirmative action plans. In addition, a number of State regulatory agencies; e.g., State departments of education, have developed administrative requirements for affirmative action.⁹

JUDICIAL DECISIONS

Judicial interpretations of title VII and related Federal laws have extended the principles of affirmative action. The courts have generally required corrective action from all employers when findings of discrimination have been made. Some of the key concepts that have established precedent for corrective and affirmative action are:

Discrimination Against a Group or Class

Employment discrimination, by definition, is *class-wide* discrimination. Where it is found, action to eliminate it must apply to all members of the

⁷ See Joseph E. Champagne and Jane H. Lerner, *Equal Employment Opportunity Under Federal and State Laws: A Guide to Laws and Orders Prohibiting Discrimination in Employment*, Houston: University of Houston, 1973.

⁸ States which presently require affirmative action by statute include Maine, Massachusetts, and New Jersey. Administrative regulations in California, Idaho, Oregon, and Washington similarly require the development of affirmative action plans by education agencies. Related actions are now under consideration in several additional States.

"affected class" to which an individual complainant belongs. The class discrimination concept has been broadly interpreted by the courts.⁹

Employer Intent

It is the *consequences* of the employment practice, not the *intent*, which determines whether discrimination requiring remedial action exists.¹⁰

An employment practice or policy, however neutral in intent and however fairly and impartially administered, which has a "disparate effect" on members of a "protected class" (those groups specified in the law) or which perpetuates the effect of prior discriminatory practices, constitutes unlawful discrimination unless it is proved that such policy is compelled by "business necessity" ^{11,12} and/or by validation of tests and other selection procedures.

Determination of Discrimination

Statistics, such as highly disproportionate representation of minorities or females in any job classification in relation to their presence in the population or work force, constitute strong evidence of discriminatory practices. Where such statistics exist, the burden of proof is on the employer to show that they are not the result of overt or institutional discrimination.

The concepts conveyed in these judicial decisions provide the foundation for affirmative action. When a statistical survey shows that racial and ethnic minorities and females are not participating in an institution's or agency's work force at all levels in relation to their presence in the relevant labor pool, the burden of proof is on the employer to show that this is not the result of discrimination, however inadvertent.

The employer is not required to hire unqualified personnel or to impose quota systems to achieve proportional statistical representation. What is required is the demonstration of good faith efforts to ensure true equality of employment opportunity regardless of race, color, national origin, or sex.

Judicial interpretation of the requirements were summarized by Justice Burger:

What is required . . . is the removal of artificial, arbitrary and unnecessary barriers to employment when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification.¹³

The barriers that were identified by the Supreme Court and many other courts include various practices and policies of recruitment, selection, placement, testing, systems of transfer, promotion, seniority, lines of progression, and many other basic terms and conditions of employment.

Judicial decisions regarding numerous issues presently being litigated in the courts will continue to specify the coverage, procedures, and requirements for corrective and affirmative action.

LAWS REGULATING COLLECTIVE BARGAINING AGREEMENTS

The primary experience base covering the conduct of employers and unions or bargaining agents has been accumulated by groups covered under the National Labor Relations Act. Public employees are *not* covered under this act, and at the present time there is no national collective bargaining act covering public employees.¹⁴ Numerous State laws, however provide for public employees' collective bargaining. In addition, Federal antidiscrimination laws speak directly to the coverage and responsibility of labor organizations on issues related to discrimination.

Generally, it can be stated that it is unlawful for labor organizations:

- to exclude individuals discriminatively from union membership, thereby causing them to lose job opportunities.
- to discriminate in the representation of union members or nonmembers in collective bargaining, in processing of grievances, or in applying the provisions of an agreement or contract in a discriminatory fashion.
- to cause or attempt to cause employers to enter into discriminatory agreements or otherwise discriminate against union members or nonmembers.

⁹ *Bow v. Colgate Palmolive*, 416 F. 2d 711, 721 (7th Cir. 1969); *Jenkins v. United Gas Co.*, 400 F. 2d 29 (5th Cir. 1968); *Blue Bell Boots v. EEOC*, 418 F. 2d 355 (6th Cir. 1969).

¹⁰ *Griggs v. Duke Power Co.*, 401 U.S. 425 (1971).

¹¹ *U.S. v. Hayes International Corp.*, 456 F. 2d 112, 118 (5th Cir. 1972).

¹² *United States v. Ironworkers Local 86*, 443 F. 2d 544, 550-551 (9th Cir. 1971), cert. den. 404 U.S. 984 (1971); *United States v. United Brotherhood of Carpenters and Joiners, Local 169*, 457 F. 2d 219, 214 (7th Cir. 1972).

¹³ *Griggs v. Duke Power Co.*, supra p. 431.

¹⁴ Hearings on a national collective bargaining bill are being conducted by the Senate Labor and Public Welfare Committee.

It is important to note that a collective bargaining agreement may be found discriminatory if the application of the contractual provision places a disparate effect on the basis of race or sex. An example of this principle is found in the debate which has been generated by the conflict between seniority provisions of collective bargaining agreements and the greater burden that most seniority systems placed on minorities and women. Court decisions have not been definitive, but a trend has emerged which requires the establishment of some balance between seniority provisions and affirmative action provisions.

Likewise, it may be generally unlawful for employers:

- to participate with unions in the commission of any discriminatory practices unlawful under these acts.
- to practice discrimination in a manner which gives rise to racial or other division of employees, to the detriment of organized union activity.

A primary responsibility of any labor organization is that of representation of all groups of the membership. When it can be demonstrated that classes or groups of the membership are not being represented, collective bargaining agreements may be invalid.

INSTITUTIONAL POLICIES PROHIBITING DISCRIMINATION

In the past decade, many education agencies and institutions have adopted administrative policies which articulate the ideal of equal employment opportunity which is the basis for affirmative ac-

tion planning and methodology. The experience of agencies and institutions in the implementation of such policies provides a valuable starting point for the effective development of affirmative action plans and efforts.

Such administrative policies have been a point of communication between those responsible for agency or institutional governance and policy formulation and those involved in management and policy implementation. The success of any affirmative action plan is dependent on the agreement between governance and management as to the need for and purposes of affirmative action and the implications of good faith effort to implement such a plan. Shared experience in the development and institutionalization of equal employment opportunity policies can facilitate this agreement.

Accumulated experience in the implementation of such policies may be significant for several reasons. First, such policies have served to establish a clear action directive for the agency or institution. Second, they also serve as a vehicle for establishing the agency's or institution's credibility as an equal opportunity employer.

Finally, many of the specific learnings that have been acquired through the development and implementation of institutional administrative policies provide information critical for the tailoring of affirmative action efforts to the needs of individual agencies or institutions.

Much of the significance of affirmative action may lie in its potential as a methodology for actualizing the commitments to equality of employment opportunity which now exist in the administrative policies of many education agencies or institutions.

The Need for Affirmative Action in Educational Employment

Evidence of discrimination and sex typing of jobs in education is readily apparent when one reviews the national statistics on the composition of the labor force.

In the elementary-secondary school teaching force, we find a general pattern of fewer racial and ethnic minority group members than we would expect from their presence in the population (table 2).

Although teaching is sex typed or labeled as a "female occupation," there is evidence to suggest that the administrative and decisionmaking structure of the profession is male dominated at the higher levels. Women tend to remain in the lower ranks within the profession and do not move on to higher levels of organizational responsibility. In elementary and secondary schools they are disproportionately concentrated in instructional rather than administrative positions (table 3).

The same underrepresentation of minorities is characteristic of the faculty within the higher education system. One recent study suggests that the proportion of Blacks on higher education faculties was 2.9 percent in 1972-73.¹⁵

The concentration of women within the lower ranks of the faculty is also apparent at the higher education level (table 4).

Affirmative action provides a mechanism for addressing the problems of discrimination and sex

Table 3

Educational Personnel by Sex, 1972-73¹

	Percent Female	Percent Male
Elementary-Secondary Instruction		
Elementary Teachers	83.5	16.5
Secondary Teachers	46.4	53.6
Principals		
Elementary	19.6	80.4
Junior High	2.9	97.1
Senior High	1.4	98.6
Assistant Principals		
Elementary	30.8	69.2
Junior High	7.6	92.4
Senior High	6.4	93.6
Superintendents	0.1	99.9
Assistant Superintendent	5.3	94.7

¹ National Education Administration Research Division, Report 1973-R5, 26th Biennial Salary and Staff Survey of Public School Professional Personnel, 1972-73, Washington, D.C.

Table 4

Distribution of Women in Higher Education Facilities¹

Faculty Rank	Percent Faculty Who Are Women	
	1972	1974
Professor	9.8	10.3
Associate Professor	16.3	16.9
Assistant Professor	23.8	27.1
Instructor	39.9	40.6
Total	22.3	24.1

¹ National Center for Education Statistics, published in the *Chronicle of Higher Education*, Vol. IX, No. 19, Feb. 10, 1975.

Table 2

Minority Teachers¹

	Percentage of Minority Teachers	Percentage of Minority in Population
Black	9.3	11.4
Spanish-Speaking	1.1	5.2
Asian	.4	1.4
Native American	.1	.4

¹ Statistics on percentage of minority teachers obtained from National Education Administration Research Department, 1973; statistics on population based on 1972-74 Bureau of Census data.

typing in education employment. A plan represents the written commitment of an employer to eliminate discrimination and actively remedy the current effects of past discrimination. An affirmative action plan is a policy and program document that helps to assure a coordinated effort to achieve effective results. It is or should be an action-oriented set of procedures designed to clarify responsibility

¹⁵ Bayer, Alan E. *Teaching Faculty in Academia: 1972-73*. ACE Research Reports, Vol. 8, No. 2, 1973, p. 13.

and outline the specific action steps for achieving the goals that have been established.

The development of an affirmative action plan is an important task for any employer, even when not required by law. Voluntary development of an effective plan:

1. Demonstrates the institution's or agency's commitment to equal employment opportunity.
2. Helps to identify discriminatory practices or policies which, consciously or unconsciously, may be operating with discriminatory impact throughout the employment system.
3. Specifies actions that carry out the letter and the spirit of laws prohibiting discrimination.
4. Clarifies the institution's or agency's policies for employees and the community.

5. Demonstrates "good faith" in the event of possible complaints of discrimination.

Judicial rulings on discrimination complaints have held that employers are accountable for the present effects of past discrimination and that the obligation of providing nondiscrimination rests with the employer. An employer's voluntary development of a plan to identify possible discrimination may become an important consideration in the event of subsequent charges of discrimination.

Provisions of employment affirmative action plans generally include, but are not limited to, recruitment and recruitment advertising, hiring, assignment, transfer, upgrading, promotion, layoff or termination, rates of pay, fringe benefits, training and extra duty or other forms of compensation. Each of these areas should be considered as a possible source of discrimination.

Instituting an Employment Affirmative Action Plan

Affirmative action plans may be instituted in a number of ways. First, they may be required as a condition of Federal funding. If a district or an institution receives \$50,000 or more in Federal contracts,¹⁶ it is required by executive order to develop and implement a written affirmative action plan. If the institution or district receives \$10,000 or more in Federal contracts, it is required to observe equal employment policies, although it is not required to develop a plan.

When a plan is required for Federal contracts, it is subject to public inspection and copying provisions under the Freedom of Information Act. A copy of the plan may be obtained either directly from the agency, institution, or from the Office for Civil Rights, HEW. If such a plan exists, individual or group initiative should be directed toward monitoring the plan and working to strengthen identified weaknesses.

A second method of instituting an affirmative action plan is to include a requirement for the development of a plan in the collective bargaining package of employee groups. The advantage of including the development of a plan in the bargaining package of either the labor organization or management is that it demonstrates good faith intent to comply with the law. This may be important to both parties if subsequent discrimination complaints are filed against either or both. Under the law, both the employer and the labor organization may be liable for damages which result from discriminatory contract provisions or practices. For the labor organization, a second advantage of initiation is the opportunity for involvement of the labor organization in the development and monitoring of the plan, and the inclusion of conditions of the plan in the grievance process structure.

A third method of instituting a plan is through administrative action. A board of education, board of trustees, or chief administrative officer may initiate the development of a plan as a demonstration of progressive management policies and a

good faith effort to comply with the law. In this instance, the plan serves as a method of anticipating problems and handling them before the crisis of a complaint and subsequent investigation arises.

Corrective or remedial action may be mandated if a finding of discrimination is made after investigation by a Federal, State, or local agency. Development and implementation of such action plans may be required by the agency or the courts. The filing of complaints under any of the Federal anti-discrimination laws that apply may result in such an investigation and action. Complaints may be filed by individuals or groups, and may be filed in behalf of any individual, a class, or on the basis of a pattern of discrimination.

Other methods of moving educational institutions and agencies toward affirmative action may be used. In a few States, chief State school officers or boards of higher education have moved to require affirmative action from local education agencies or institutions of higher education as a condition of accreditation. Some State legislatures have passed laws which require affirmative action in education agencies or institutions. Finally, affirmative action plans may be incorporated as a condition of future Federal programs and regulations.

It is important to emphasize that the trend toward required affirmative action in education has been established by court decisions, Federal and State laws and regulations, sound management policy, collective bargaining agreements, and the handling of discrimination complaints. A further impetus toward affirmative action is the increased Federal effort to document discriminatory policies of educational agencies and institutions. Personnel reporting forms have recently been developed by the Equal Employment Opportunities Commission and the U.S. Department of Health, Education, and Welfare. The form (called EEO 5 for local education agencies and EEO 6¹⁷ for institutions

¹⁶ Grants are not subject to inclusion under this requirement.

¹⁷ EEO-6 will be available by summer 1975.

of higher education) requires the reporting of work force by race, sex, job classification, and salary level. In addition, new hires are to be reported on a yearly basis. This information will be held in a data bank over a period of time as a means of

identifying patterns of discrimination. The very structure of the reporting form and the necessity to report this information will undoubtedly help to identify patterns of discrimination and bring the issue to greater visibility.

Elements of an Employment Affirmative Action Plan

An affirmative action plan is a statement of policies, procedures, and actions to which the employer is committed to ensure equal employment opportunity. It is a document which guides an agency in both investigation and remediation of discriminatory employment policies and practices. There is no single format for an affirmative action plan, and it is important that the staff of an agency or institution be involved in the creation of its own model. This is necessary to maximize staff understanding and commitment to the plan.

Most employment affirmative action plans contain five general sections:

- A statement of policy and purpose
- A work force utilization analysis
- A set of procedures for identification and modification of present procedures and practices which have discriminatory impact or which perpetuate effects of past discrimination
- A statement establishing goals and timetables for improving identified underutilization in specific job categories
- Procedures for monitoring, evaluating, and reporting the plan.

Development of a plan is only a starting point or a statement of intent. It should be reviewed periodically, modified, and amended as circumstances dictate. It is not legally binding unless it is developed as a requirement of Federal contracts, or after a finding of discrimination has been made by a Federal agency, or it is specified in collective bargaining contracts. The following outlines the contents of the various sections of a plan and suggests a sequence of activities for its development.

STATEMENT OF POLICY AND PURPOSE

A statement of policy should provide the reader with at least three pieces of information—the intent of the plan, the objectives of the plan, and the level of ultimate responsibility for implementation of the plan. When possible, references to established institutional or agency policies should be included.

The section on policy and purposes should be as specific as possible in order to focus the remaining portions of the plan and to provide the reader with a frame of reference for reading and understanding the plan. Examples of purposes that would be appropriate are:

- To insure equal opportunity in all personnel policies, practices, and collective bargaining agreements through the identification and elimination of practices that discriminate on the basis of race, religion, color, national origin, sex, or age.
- To increase the utilization of racial and ethnic minorities and women at all levels of employment where deficiencies may exist.
- To design and implement internal assessment and reporting procedures for the evaluation of the effectiveness of the plan.
- To develop employee development programs designed to assist employees in fulfilling the provisions of the plan.
- To establish procedures within the grievance process for prompt processing of individual or group discrimination charges.
- To establish procedures for monitoring, evaluating, and making necessary modifications of the plan.
- To provide for the publication and dissemination internally and externally where appropriate of the Affirmation Action Plan and to ensure its availability to interested citizen groups.

Other purposes should be added as appropriate to the situation.

WORK FORCE UTILIZATION ANALYSIS

One of the two most critical elements of an employment affirmative action plan is the analysis of the present utilization of the work force. Examination of the statistical array of the work force provides a convenient method of beginning to identify patterns of discrimination among the

employee groups. A work force analysis is defined by Federal regulations as:

Listing of each job classification as it appears in applicable collective bargaining agreement or payroll record; (no job group) ranked from the lowest paid to the highest paid within each department or other similar organizational unit including departmental or unit supervisors.¹⁸

Further specification of regulations indicates that for each job classification, the total number of male and female incumbents, and the total number of male and female incumbents in each of the following categories or affected classes must be given: Blacks, Spanish-surnamed, American Indians, and Asians. The wage rate or salary range for each job classification should be provided. All job classifications, including supervisory and managerial job classifications, must be listed. A worksheet and summary table is provided in the sample affirmative action plan provided in Appendix A.

One convenient source for locating the necessary information is the completed EEO-5 form which has been prepared for Federal agencies. Although additional information may be needed, this will provide a convenient starting point.

Once a listing of the job classification has been made, the real work of the analysis begins. It is the purpose of an affirmative action plan to ensure that individuals are employed without consideration of race, color, national origin, religion, or sex and to remedy the effects of past discrimination.

Affirmative action efforts have frequently been criticized on the ground that they force employers to hire unqualified persons. Judicial interpretation has clearly established that no employer is ever required to hire unqualified persons but rather to ensure that qualifications and merit are indeed utilized without regard to race, color, national origin, religion, or sex. Each employer is to determine the valid job requirements for each job category. Judicial interpretation has held that if any requirement has an adverse impact on members of a protected group, the burden of proof rests with the employer to demonstrate its job relatedness. Specified job requirements should be examined to identify sources of institutional bias. Once valid job-related requirements have been determined, a review of the existing work force in comparison to the relevant potential labor pools

holding these qualifications will reveal whether or not underutilization exists.

Establishment of criteria for underutilization should be given great attention. The relevant labor pool will vary considerably in terms of job position and geographic location. For example, the factors which might be considered in determining underutilization of an affected class of elementary-secondary school teachers would include the representation of the group in the population, the representation of the group in the State work force, and the representation of the group receiving BA degrees and teaching credentials in the State. State statistics are used in this instance since State institutions prepare a majority of the teachers in their State and State requirements vary. This provides an estimate of the relevant labor pool, which becomes a measure for determining underutilization. A separate measure for evaluation of underutilization of administrative positions would be required. Since the qualifications for principals in most States include possession of an advanced degree, the relevant potential labor pool would be composed of individuals possessing such a degree.

Goals are determined in relation to the available labor pool. However, the setting of a goal does not impose an inflexible requirement; it provides a target against which to evaluate the success of affirmative efforts. After all efforts toward fair, affirmative recruitment have been made and the applicant pool has been broadened, agencies and institutions are free to hire the best qualified person.

The same principles would follow for institutions of higher education. At this level, a rational basis for establishing criteria for determining underutilization of minorities and women within academic departments would be based on national statistics regarding the percentage of graduate degrees earned by the groups being considered. For example, the percentage of women receiving advanced degrees in physics is about 3 percent as compared to the 43 percent of women receiving advanced degrees in education.

Factors to be considered in assessing underutilization and recruiting for classified jobs or for non-specialized positions include:

- The percentage of each minority group in the total local population.

¹⁸ Revised Order No. 14, *Federal Register*, Feb. 14, 1974.

- The percentage of each minority group and females in the relevant labor pool.
- Institutions in the community capable of training people in the needed skills.
- Employing organization's capability to provide training to qualify minorities and women for various job classifications.

It is important to determine for each job category, the nature of the statistical information against which adequate utilization of affected groups in the work force must be evaluated. Once the relevant labor pool has been identified, availability statistics may be obtained from Federal, State, and local agencies, professional associations, and Census data. The criteria selected by the employer, however, must be supported by a rationale based on:

- Validated job requirements.
- Availability of affected groups with job-related skills.
- Promotion and transfer eligibility and availability with present work force.
- Availability of training experiences.
- Applicant flow or the demographic composition of job applicants.

MODIFICATION OF PRESENT PROCEDURES AND PRACTICES

The study back to the work force utilization analysis should be extended to an examination of present policies and procedures. A primary function of an affirmative action plan is to identify systemic sources of bias and discrimination. Some of the areas that should be studied are:

Job Analysis

All positions should be reviewed in terms of existing job descriptions, minimal bona fide qualifications, tasks, job functions, selection procedures, and salary scales as a method of correcting any inadvertent discrimination that may exist. Care should be taken to insure that position descriptions reflect actual job functions and related skills and that they are consistent for the same position from one unit or department to another.

Performance criteria should be kept in mind during the review of job descriptions and the consideration of bona fide occupational qualifications for each position. Development of performance criteria for the various positions is a first step in the reduction of sources of bias and discrimination.

Recruitment and Selection Procedures

The commitment to recruit and select minorities and women fairly and without discrimination carries with it the responsibility to insure that traditional recruitment methods are extended to include identification of these persons. Review of policies, methods, and procedures should consider recruitment sources, records, notices, application forms, interviews, procedures, conditions of collective bargaining agreement, starting salaries, and policies regarding the employment of relatives in order to determine if any of these are adversely affecting employment of minorities and women.

Each of these should be carefully examined to determine ways that minorities or women may be discouraged or eliminated from consideration for hiring.

Hiring Procedures

In many districts and postsecondary institutions, hiring is carried out by a number of persons. All employees should be made fully aware of the goals and timetables and modifications of policies and practices specified in the affirmative action programs. One person with central responsibility for affirmative action should review applications received, referral of applicants, handling of applications, and hiring patterns. Reasons for failure to hire qualified persons in the affected groups should be documented by the person making the decision. This becomes part of the record file needed for demonstrating compliance.

Promotion and Upgrading

A common form of discrimination is found in the permanent assignment of minorities and women to specific job slots without recognition of their ability to move to another level of performance. A first step in examination of career mobility of employees consists of a review of employees to determine:

- Promotion records of men, women, and minorities in each employee classification and unit.
- Identification of employees who presently hold positions that underutilize their abilities.
- Identification of the barriers to the upgrading of minorities and women and steps for overcoming these barriers.

When these factors have been determined, a career development and in-service training program should be instituted or upgraded to meet the needs of employees. Effort should be made to develop a career lattice system that permits vertical and lateral movement of employees.

Assignment of Staff

Even when an agency or institution employs large numbers of minorities and women in its work force, discrimination may still be evident in the assignment of that staff. Minorities and women may be assigned to specific schools or units, paying and/or nonpaying extra duty assignments may be given to one group, overtime duties may be unfairly assigned, and opportunities to participate in special events and training programs may be limited to certain groups. Each of these factors must be carefully assessed to insure nondiscrimination in the handling of all personnel matters.

Collective Bargaining Agreements

Collective bargaining agreements with labor organizations are covered by Federal anti-discrimination laws. The negotiated agreement cannot violate these Federal laws. Discriminatory clauses may be found in seniority and bumping provisions (a bona fide seniority system is legal, but its operation must not result in discrimination against minorities or women), and in those relating to promotion, firing practices, rates of compensation, etc. The principle to be followed is that any provision which results in discrimination against an affected class and cannot be justified by business necessity is illegal. Since labor organizations may share liability in any actions which may result from discriminatory policies, it is to their advantage to identify possible sources of discrimination and take steps to eliminate them. Every collective bargaining agreement should include a non-discrimination clause covering all procedures of the agreement. Provisions should be made for opening portions of the contract where discrimination is identified without necessarily reopening negotiation of the total contract. Contracts should specify that arbitration of discrimination grievances shall follow title VII principles.

Grievance Procedures

A primary advantage of most collective bargaining agreements is their specification of a grievance process with adequate measures to insure just handling of complaints or grievances related to the plan. If the agreement does not specify these procedures or cover grievances related to promotion, hiring, and training, it should be modified to cover these items. If a collective bargaining agreement does not exist, an affirmative action plan should specify grievance procedures.

Fringe Benefits

A common source of discrimination in employment is the selective provision of fringe benefits. All benefits and employment conditions (including access to training) should be equally available to all employees or all employees within a specified group. General benefits such as medical, hospital, accident and life insurance; retirement benefits; leave, etc., should be equally available to all employees. Although different provisions may be made for training opportunities and travel assignments between various groups of employees, they must be made equally available to all employees within a job category and cannot be made on the basis of race, color, national origin, or sex.

Areas to consider are:

Retirement and Insurance Plans

- Males and females should be eligible for retirement and pensions on the same basis, including equal retirement age and benefits.
- Benefits should not be based on provisions that an employee is a "head of household" or "principal wage earner."
- Benefits for husbands and families of female employees should be the same as those available to wives and families of male employees.
- Benefits available to wives of male employees should be available to female employees.
- Title VII Sex Discrimination Guidelines require periodic retirement benefits be the same for men and women. The fact that they may cost more does not excuse the employer from providing equal benefits.

Pregnancy and Maternity

- Any written or unwritten policy which excludes employees from jobs because of pregnancy, or requires them to stop work at a specified time should be changed.
- The time when a pregnant woman should cease work must be determined on an individual basis. This depends on the physical condition of the particular woman and the nature of her job.
- Pregnancy, miscarriages, abortion, childbirth, and recovery are for job-related purposes "temporary disabilities." They should be treated in the same manner as other temporary disabilities.
- Child rearing provisions, if available, must be provided for both sexes.

Layoff, Recall, Discharge, Demotion

- Standards for termination, recall, demotion, or discipline must be the same for all employees. Seemingly neutral practices should be examined to make sure that the policy does not have a disparate effect on minorities or women.
- Seniority and bumping provisions which perpetuate past discrimination are illegal and must be modified.

GOALS AND TIMETABLES

The goals and timetables established in an affirmative action plan are, with the work force utilization analysis, its most critical components. Numerical goals for the representation of affected classes of persons within the work force of an education agency or institution are developed on the basis of criteria specified in the work force utilization analysis. Underutilization is determined by comparing the percentage of affected class incumbents with the percentage of those in the potential labor force possessing bona fide qualifications for employment. Utilization should be considered for each job classification and by units and departments as well as for the total work force of an employer.

The plan's numerical goals reflect the composition of the work force as it would exist if there were no discrimination. Timetables for achieving these goals are developed from projections based upon

past turnover rates and projected employment needs.

The goals of an affirmative action plan should include long-range goals and intermediate or annual targets. Long-range goals should reflect the achievement of proportionate representation of each group identified as "underutilized." An acceptable goal is measurable, attainable, and a significant step toward affirmation action. It should be specific and related to timetables. Goals are not rigid or unchangeable. They represent reasonable estimates of the expected numbers of minorities and women in the work force as the organization reduces discrimination.

Intermediate targets should be developed for hiring, training, transferring, and promoting which will lead to the achievement of the established goals. Factors to be included in setting targets are projected turnover, expansion or contraction of the work force, availability of persons with required skills, time necessary to obtain required skills, etc. Targets should be developed for the organization as a whole, for each unit, and for each job category.

Many have confused the term quotas with goals. A quota implies a fixed numerical requirement, whereas a goal represents a commitment to an effort, for a limited period of time, to remediate the current effects of past discrimination. Goals should reflect what the work force of any employer would look like if individual and institutional discrimination did not exist. The employer is not under legal obligation to meet the numerical goals, but rather to demonstrate all good faith efforts to observe equal employment opportunity.

Some employers have misconstrued the requirement for good faith efforts to employ minorities and women as mandating preferential employment of unqualified candidates. This practice is illegal. The responsibility of the employer is not the achievement of a specific, statistical profile. Rather it is the commitment to eliminate discrimination and the barriers to fair employment practice.

Immediate actions should be taken to insure that race, color, national origin, or sex are not factors in compensation of employees or determination of opportunities for advancement. The need for such actions usually becomes apparent through careful examination of salary levels as they are arrayed in the work force utilization analysis.

MONITORING, EVALUATION, AND REPORTING

Affirmative action plans should specify the persons responsible for implementation of the plan and the procedures to be utilized for monitoring, evaluation, and reporting. Ultimate responsibility for the plan remains with the chief administrative officer of an agency or institution, but various staff members may be delegated responsibilities. Any such delegations should be made to individuals with sufficient authority to insure effective implementation of the provisions of the plan. All employees with responsibilities for recruiting, interviewing, hiring, training, promoting, and evaluating staff should be given training and clear guidelines for carrying out their responsibilities under the plan.

Monitoring of the plan requires objective measures to estimate progress. One of the most basic is the Applicant Flow Record. This is a record of each job applicant: name, race, sex, referral source, position applied for, whether or not job offer was

made, reasons why job offer was not made, and identity of person making the employment decision. Records of the applicant flow should be maintained. Federal legislation requires employers to maintain records of all other relevant actions.

Reports of affirmative action progress should be made on a semi-annual basis. Procedures for a yearly review and evaluation of the plan should be specified. This review should be undertaken by all relevant persons. Policy boards, labor organizations, and the community are examples of groups that should be involved in such a review and evaluation process. Provisions should be made for the dissemination of progress reports and evaluations to all employees and concerned individuals and groups in the community.

The affirmative action should be modified yearly, to reflect necessary changes. Each modification should include a report of the progress made to date.

Affirmative Action in Educational Programs

To date most efforts for affirmative action have been directed toward increasing the utilization of women and minorities in the work force of an agency or institution and providing equal employment opportunity. Recognition however, has, been made of the fact that many sources of discrimination are found in the educational systems which prepare groups for participation in the work force. Educational programs have deeply embedded patterns of operation that begin to "sort" minorities and women, even at early points in the education system.

The first affirmative action plans in higher education included consideration of student or program related issues. Further impetus for this movement was supplied by the growing concern about implementation of title VI of the Civil Rights Act and title IX of the 1972 Education Amendments. Title VI prohibits discrimination on the basis of race, color, or national origin in the participation in, access to the benefits of, or operation of all programs or activities receiving Federal funds. Title IX prohibits sex discrimination in the participation, benefits, or operation of educational programs or activities receiving Federal funds.¹⁹ Not only is there need for affirmative action efforts in employment, but also for affirmative action in educational programs and activities.

Concern for affirmative action in employment and in program may be addressed in the same plan. It is our recommendation, however, that two separate affirmative action programs be developed, or that the plan include two different sections—one dealing with employment affirmative action and the other dealing with program affirmative action. Reasons for this separation include:

1. Employment issues and education program concerns are covered under two largely separate bodies of Federal and State legislation and regulations.
Employment policies and practices are spe-

cifically covered under diverse Federal legislation, collective bargaining laws, and State and local laws and regulations dealing with labor management. Enforcement agencies and procedures presently exist for remedying discrimination in this area.

Coverage of student program issues is provided primarily by titles VI (of the Civil Rights Act of 1964) and IX (of the Education Amendments of 1972) and a growing body of State and local human relations and anti-discrimination laws and regulations. Mechanisms and procedures for enforcement of many of these statutes are still under development.

2. The potential use of collective bargaining in securing, monitoring, and evaluating employment affirmative action provides a strong method for dealing with employment issues but may be less relevant to program affirmative action concerns.
3. The knowledge and expertise needed for development of employment affirmative action and program affirmative action is usually held by different persons. Division of the responsibility provides greater involvement in the development and monitoring of the plans.
4. Student and community involvement in educational program affirmative action is essential. The development and monitoring of program affirmative action plans may involve different interest groups than those involved with employment affirmative action.

For the purposes of this section, educational program affirmative action may be defined as action taken, first to identify and remedy sources of discrimination in school programs and, second, to develop policies and procedures for the prevention of such discrimination in future school programs.

¹⁹ Unlike title VI, title IX covers discrimination in employment as well as discrimination of students.

Foundations of Affirmative Action in Educational Programs

One of the most important contributions of the utilization of employment affirmative action has been the development and refinement of techniques and procedures which may be adapted for individualized systematic assessment of possible sources of discrimination in education programs and the development of corrective measures.

Requirements for equality of opportunity for all students in public education programs or institutions have been articulated in a body of human and civil rights laws, legislative histories, and judicial decisions. One of the most basic forms of discrimination against students, racial segregation within public schools, was addressed in the 1954 Supreme Court decision, *Brown v. the Topeka, Kansas, Board of Education*. The impact of this decision is evident in our continuing 20-year effort to attain racial desegregation of public schools. During the course of these efforts, recognition of other forms of discrimination against students in educational programs has increased.

This increasing recognition has resulted in the passage of three significant Federal laws dealing with equity in student programs. A variety of State laws also provides both general and specific prohibitions of discrimination against students. Primary Federal legislation is described below:

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Title VI of the Civil Rights Act prohibits discrimination on the grounds of race, religion, or national origin in educational programs receiving Federal funds. This legislation provides coverage for students and others; employment practices and policies are exempted from coverage. If any program of an institution receives Federal funds, all activities of the institution related to the program are covered. When institutional aid funds are involved, all activities of the institution are covered.

Examples of the type of complaints filed under title VI involve such issues as the denial of admission of students into schools or course offerings on the basis of race, the lack of provision of bilingual

instruction for cultural and ethnic minority groups, the tracking of minority group youth into specified courses, the denial of scholarships on the basis of race, and the placement of children on the basis of discriminatory tests.

Complaints of discriminatory practices that violate title VI should be made to:

Office for Civil Rights
U.S. Department of Health, Education, and
Welfare
Washington, D.C. 20201

or to a regional HEW office. A complaint may be as simple as a letter outlining the nature of the complaint and providing as much documentation of the complaint as possible. It may be filed by an individual, group, or organization. When filed by a group or organization, a complaint may be filed in behalf of an individual or on behalf of a class or category of persons.

If discriminatory practices are found, informal conciliation with the institution is initiated by HEW. Should this fail, the Federal Government may defer award of new funds pending a hearing, revoke current funds, and/or disqualify the institution from eligibility for future program funds after a hearing. The U.S. Department of Justice may file suit at HEW's request.

Complaints are kept confidential when possible. If court action becomes necessary, the identity of both parties becomes public information. Institutions are prohibited from discharging or discriminating against any person or group making a complaint, assisting in an investigation, or instituting proceedings against the agency or institution.

TITLE IX OF THE EDUCATIONAL AMENDMENTS OF 1972

(Higher Education Act)

Title IX states, "No person . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." Title IX is patterned

after the race discrimination provision of title VI. It differs from title VI's coverage in that it also covers prohibition of discrimination in employment on the basis of sex.

Nearly all local education agencies and institutions of higher education are covered. Religious institutions are exempt if application of title IX is not consistent with their religious tenets. Military schools are exempt if their primary purpose is to train individuals for the U.S. military services or the merchant marine.

Complaints of sex discrimination in educational programs or education employment should be made to:

Office for Civil Rights
U.S. Department of Health, Education, and
Welfare
Washington, D.C. 20201

or the nearest regional HEW office. If possible, complaints are kept confidential by the Government. The institution and the complainant are not required to maintain confidentiality.

The regulations for title IX went into effect July 21, 1975, after congressional review and signing by President Ford. Sex discrimination in the admission of students to educational institutions, in the treatment of students in educational programs, and in the employment policies and practices of educational institutions is prohibited.

Admissions provisions do not cover pre-schools, elementary and secondary schools (except vocational schools), private undergraduate institutions, and the few public undergraduate educational institutions that have been traditionally and continually single sex. Military institutions at both secondary and higher education levels are exempt from coverage as are schools run by religious organizations to the extent that compliance would be inconsistent with religious tenets.

All schools must treat admitted students without discrimination on the basis of sex. This includes such areas as:

- Access to and participation in course offerings and extracurricular activities, including campus organizations and competitive athletics.
- Eligibility for and receipt or enjoyment of benefits, services, and financial aid.

- Use of facilities, and comparability of, availability of, and rules concerning housing (except that single sex housing is permissible).

Employment provisions of the regulations cover all employees in all institutions, except those in military schools and religious institutions to the extent compliance would be inconsistent with controlling religious tenets. Employment coverage generally follows policies of the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance.

A unique provision of the regulations requires institutions and agencies to carry out self evaluation of policies, practices, and the effects thereof in those areas covered by the regulations within 1 year of the effective date. If discrimination is identified, policies and practices must be modified and appropriate remedial steps to eliminate the effects of any discrimination must be undertaken.

Affirmative action is not required under title IX, but a recipient institution or agency may take affirmative action to overcome the effects of conditions which have resulted in limited participation by persons of a particular sex. The techniques outlined in this monograph would be applicable to institutional self evaluation and the institution of corrective actions as required by title IX, as well as to affirmative action.

Enforcement at the local level is provided to the extent that agencies and institutions are required to develop grievance procedures for the prompt and equitable resolution of student and employee complaints of discrimination on the basis of those areas covered by the regulation. Utilization of this procedure is not a necessary condition for the filing of a complaint with a State or Federal agency.

Title VI and IX provide comprehensive coverage which effects virtually all educational institutions. Provisions of the Public Health Service Act, title VII and VIII, specifically address sex discrimination in health personnel training programs. A description of the coverage of this Act was provided in the preceding section on foundations of employment affirmative action. Because this coverage is limited, it will not be reviewed again here.

How To Initiate an Educational Program Affirmative Action Plan

Program affirmative action may be initiated in a number of ways. School personnel, administrators, or the chief administrative officer may initiate the development of program affirmative action as a part of their ongoing job assignments and responsibilities. Teachers and other personnel may mandate development of program affirmative action as a part of the collective bargaining package.

Concerned community groups have provided a key stimulus for change in educational programs. Citizen groups or community organizations may place pressure on school systems to develop program affirmative action. Student groups may similarly identify the need for program affirmative action and work for the development of a plan.

Boards of education frequently have information regarding sources of program discrimination and may mandate development of program affirmative action.

Although initiation of affirmative action plans may come from a variety of sources, it is wise to insure maximum involvement of all interested parties, community groups, policy boards, administrators, teachers, and students as a condition of

effective development of such a plan. A committee representing the interested groups and school system staff should be designated to develop the plan. Ideally, the policy making board and chief administrative staff would be in accord with the development of the plan.

The primary advantages of program affirmative action to any local education agency or institution of higher education include the following:

1. Demonstrates the agency's or institution's commitment to educational equity.
2. Helps to identify discriminatory practices or policies which, consciously or unconsciously, may be operating with discriminatory impact on students on the basis of race or sex.
3. Assists in compliance with both the letter and spirit of nondiscrimination laws.
4. Provides an important mechanism for involvement of community, school personnel, and students in understanding the legal requirements, the sources of discrimination, and the corrective actions that are required for attainment of educational equity.
5. Provides a mechanism for monitoring and updating of discrimination concerns.

Elements of Educational Program Affirmative Action

A program affirmative action plan may be organized and written in a variety of ways. The plan should include a statement of intent or policy, a preliminary identification of sources of discrimination, and an outline of areas and procedures for further investigation, remedies for eliminating bias and discrimination, goals and time frames for corrective action, and procedures for monitoring, evaluating, and reporting the plan. It should not be considered a rigid and unchanging document, but rather a method of identifying problems, developing goals for action programs, and evaluating progress toward these goals.

Local situations dictate the most pressing problems to be considered. An appropriate strategy in some communities or institutions may be to limit program affirmative action to a few areas. In other communities with more resources, it will be possible to move ahead with a comprehensive educational program affirmative action plan. In either instance, procedures for periodic evaluation, review, and modification of the plan should be specified. The following outlines areas for program plans that should be considered as possible areas for inclusion.

POLICY STATEMENT

The statement of policy for a program affirmative action plan should outline the intent of the district or institution and indicate relevant policy actions. An example of an appropriate policy would be a paraphrase of the Federal legislation which indicates a commitment to insure that no student, on the basis of race, color, national origin, or sex, is excluded from participation in, be denied the benefits of, or be subjected to discrimination in any education program or activity.²⁰

Another approach might emphasize the responsibility of schools to provide affirmative education. A policy statement might outline the need for

education which affirms the potential worth and value of each individual student and state a commitment to affirmative education as a means of preparing all children for maximum participation in and contribution to our society.

A statement of purpose provides readers a quick summary of the plan as well as a frame of reference for understanding and evaluating the plan. Examples of specific purposes are:

- To identify sources of discrimination on the basis of race, color, national origin, or sex in educational programs and activities.
- To take corrective actions to insure that no student, on the basis of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity.
- To identify bias in instructional materials and develop programs for securing non-racist, non-sexist materials and supplementary materials.
- To identify bias in counseling instruments and materials and develop programs for securing non-racist and non-sexist materials which can expand a student's understanding of his/her abilities and options.
- To provide training for all school personnel which can increase their capability for providing non-stereotyped, affirmative education.
- To modify existing curriculums to insure the inclusion of information on the history, roles, and contributions of the variety of racial and ethnic groups in U.S. society and the history, roles, and contributions of women.

EDUCATIONAL PROGRAM ANALYSIS AND MODIFICATION

A major goal of educational program action plans is the identification of specific institutional policies and practices which perpetuate inequality.

²⁰ Although neither titles VI nor IX prohibits discrimination against students on the basis of religion, Constitutional provisions may well apply.

The effectiveness of action efforts increases with the availability of objective data about the local situation and the opportunity that it provides for "tailoring" the plan to specific needs. In some instances, data have already been collected which would identify needs and targets for educational program affirmative action.

Community groups may have studied racism or sexism in schools, central office staff may have collected relevant data, or teacher and student groups may have collected important information. Educational program affirmative action can be initiated without documentation of the local situation, but some procedures and methods should be incorporated into the plan for determining the nature of local problems. Program analysis does not require sophisticated research methodology, but may be carried out by careful consideration of the available information.

Sources of information that are readily available include the experience and expertise of school personnel, boards of education, and students; school records of the enrollment of students by school and course offerings; description and analysis of course content and instructional materials; and analysis of budget allocations and expenditures.

Some of the most common sources of discrimination and the possible modifications of the problems are discussed in the following section.

TEXTBOOKS AND INSTRUCTIONAL MATERIALS

Textbooks and instructional materials tend to perpetuate images of white, middle-class, suburban families living in traditional families.²¹ This stereotyped view of our society limits not only the development of positive self-image in a majority of students who do not share these characteristics, but also limits student's understanding and preparation for living with the diversity of our society.

At the present time it is not possible to purchase a full range of non-racist, non-sexist textbooks for use in schools. In the interim, the following steps may be taken.

- Development of guidelines and criteria for examination of the possible bias of textbooks and instructional materials.
- Transmission of the guidelines for textbooks

and instructional materials to textbook vendors and publishing companies.

- Provision of mandatory training to instructional personnel which can assist them in the identification of bias in instructional materials and the development of student's critical reading skills.
- Provision of resource materials which may be used to supplement the omissions and bias of the textbooks.
- Provision of curriculum outlines and teaching materials which can increase their capability to adapt and develop their own resources.
- Provision of education in interpersonal skills and techniques for helping students recognize and deal with racism and sexism.
- Specific allocation of library and instructional material funds for the purchase of supplementary materials.
- Designation of employees for the development of curriculum and teaching materials.

SCHOOL PERSONNEL BEHAVIOR

It is through interaction with teachers, counselors, administrators, and other school staff (bus drivers, cafeteria workers, custodial staff) that students receive some of the most significant messages of their educational experience. From the behavior of school personnel, students learn how others see them, their abilities and their futures; how they will be treated and valued by other people and by the larger society. These learnings have been termed the "hidden curriculum."

Because school personnel have been socialized to reflect the biases and stereotypes which characterize our society, it is important that they become sensitive to these biases, their sources, and their effects upon students. To assist and support them in developing this awareness and strategies for incorporating it in their job performance, all school personnel should be provided with the following kinds of training:

- General human relations training concerning the concepts of bias and stereotyping and their manifestations in the educational system.

²¹ Although textbooks and instructional materials are not covered under titles VI or IX, it is recognized that they perpetuate inequality on the basis of race or sex. Consideration of the problem in individual plans provides an example of meeting the "spirit of the law."

- Training relating to the alleviation of discrimination in their particular job function, for example:

- instructional skills for teachers enabling them to identify and deal with biased materials in the classroom.
- information and skills for counselors regarding the use of biased instruments and the participation of minorities and women in the work force (specific training needs are identified in other portions of this section).

ASSIGNMENT OF SCHOOLS AND STUDENT GROUPING

One of the major limitations of educational programs for racial and ethnic minority group children has been their assignment to schools with fewer resources than middle class, suburban schools. Care must be taken not to conclude inequality without careful assessment of all relevant factors. Areas to be evaluated are the patterns of assignment of students and staff, allocation of resources, and accessibility of specialized programs for all students.

Another source of discrimination is the overt or covert assignment or encouragement of sex segregated classes or programs. Girls may be discouraged or excluded from mathematics or science courses. Vocational courses or schools may be limited to one sex. Sex segregation may also be overtly or covertly encouraged in school-sponsored extracurricular activities. Although these practices are now illegal, it will require considerable effort to change existing policies and norms.

Some of the actions that may be taken to reduce these problems are:

- Assignment of students and staff in accordance with goals of equality in the allocation of resources and the accessibility of programs for all students.
- Opening courses and programs to all students regardless of racial or ethnic group or sex.
- Development of coeducational "survival" courses which combine the skills usually taught in home economics and shop courses for junior high and senior high students.
- Development of programs to encourage students to investigate non-traditional career opportunities.

PHYSICAL EDUCATION AND COMPETITIVE SPORTS

Physical education and competitive sports programs have frequently not been designed to meet the needs of racial and ethnic minority groups and girls. Minority group children may not be encouraged to develop their potential, particularly for individual sports. Girls have not been provided training, resources, access for facilities, encouragement, or opportunities for competitive sports or even physical fitness. The situation for males is likewise discriminatory in that frequently a majority of the athletic funds are allocated to support the small number—often less than 5 percent—of the male students who "star" in team sports.

Actions that may be taken include:

- Development of policies and programs of co-educational physical education for elementary and secondary students.
- Development of coeducational sports activities to the extent that individual student interests and resources permit.
- Provision of male and female teaching teams for physical education courses.
- Provision of equal access to competitive sports for girls including equal facilities, coaching, equipment, and other relevant factors.
- Development of programs to assess and broaden the interests of boys and girls in competitive sports to provide activities to meet the interests of students of all racial or ethnic groups, of either sex, and of every ability level.
- In-service training for physical education faculty.

STUDENT POLICIES AND EXTRACURRICULAR ACTIVITIES

Student services such as counseling and health services, and policies covering discipline, student government, student pregnancies, etc. may be discriminatory. Resources for counseling and health services may be less available for schools with high concentrations of racial and ethnic minority youth. When services are provided, they may be provided differentially on the basis of race or sex. Some of the action steps that may be taken to correct these are:

- Investigation of availability of student services and policies and institution of corrective measures.

- Development of policies prohibiting race, color, national origin, or sex segregated extracurricular activities.
- Development of policies to permit pregnant students to remain in schools of their choice.
- Development of policies prohibiting race, color, national origin, or sex qualifications for honors and scholarships.
- The review of testing and counseling materials for race and sex bias and the development of guidelines for the use of tests and instruments.
- Provision of in-service training to assist counseling staff in identifying and interpreting race, color, national origin, or sex bias of instruments and tests.
- Development of procedures to deal with student charges of discrimination.

Many other areas of discrimination and corrective actions may be identified. The above are intended only as general suggestions. The particular situation and resources of the institution or agency can permit much more specific formulation of problems and corrective actions.

GOALS AND OBJECTIVES

The section on goals and objectives for an educational program affirmative action plan summarizes the actions that are to be taken to correct identified sources of discrimination and assigns specific responsibility and time lines for completion of the corrective actions. Actions to be carried out should be stated in the form of specific goals and objectives.

Each goal should represent a measurable, attainable, and significant step toward providing equality for students. They may be divided into long-range goals with intermediate target goals. These goals are not permanent; they should be periodically modified in an ongoing effort to move toward equality.

EVALUATING, MONITORING, AND REPORTING

Effective program affirmative action plans are working documents. They represent a systematic method of identifying sources of discrimination, developing corrective procedures, assigning responsibility and evaluating efforts to eliminate discrimination. The extent to which the plan is supported by board members, administrators, staff, and students will determine the degree of success attained. The methods of disseminating, monitoring, evaluating, and modifying the plan should be specified.

Although ultimate responsibility for the implementation of the plan remains with the chief administrative officer (superintendent), it is wise to delegate responsibility for monitoring the plan to an employee with adequate time for carrying out this responsibility effectively. This person may be the same person delegated the responsibility of Equal Employment Officer or it may easily require at least two persons, particularly during the early stages of implementation.

When a plan has been developed, briefing sessions and training sessions should be provided the total staff to insure that the plan is understood and that personnel may be equipped with the necessary skills for implementation of the plan. Staff members should be involved in implementation to the greatest extent possible.

It is also suggested that a Committee on Educational Program Affirmative Action be established. This committee should include representation of staff, students, community, administration, and the school board. This committee provides input for both the development of the plan and its evaluation. The plan should be carefully evaluated and modified every year.

Progress reports should be prepared at least annually and disseminated to staff, students, and community.

Appendixes

Appendix A

Sample Employment Affirmative Action Plan for Local Education Agencies*

I. POLICY STATEMENT

Policies of School District 1 have traditionally sought to attain a condition of equality of employment opportunity. We recognize that this has not been attained and that inequities continue to exist. If the inequities of the past are to be eliminated, positive actions must be taken. The following employment affirmative action plan is undertaken as a means of attaining equality of employment opportunity and to ensure District 1's compliance with the letter and the spirit of the law.

The mandate to develop an Employment Affirmative Action Plan begins with the policy statement adopted by the Board of Education, January 1974, which states that:

The policy of School District 1 shall be to select employees as needed on the basis of merit, training, and experience. There shall be no discrimination against any applicant or employee because of race, creed, color, national origin, sex, or age; except when it is necessary to meet a bona fide occupational requirement. All contractors and vendors shall be required to adhere to this policy. School District 1 shall take all necessary actions to comply with the letter and the spirit of State and Federal laws prohibiting discrimination in employment.

The development of this Employment Affirmative Action Plan is further supported by the provisions of the 1975-76 collective bargaining agreement with the Minto Valley Teachers Association which require development of such a plan by January 1976.

The intent of this plan is to reaffirm this District's commitment to equal employment opportunity and to assist in the refinement and implementation of existing policy by insuring that all recruitment, hiring, training, promotion, personnel management practices, and collective bargaining agreements are structured and administered in a manner which furthers equal employment opportunity principles and overcomes the effects of past discrimination in our society. We recognize that equality of employment opportunity is a requirement of Federal, State, and local law. Further, the representation of males and females of all racial and ethnic

groups throughout all levels of the District's staff serves an essential educational purpose by providing models which can support the development of positive self concepts in all students.

The specific purposes of this Employment Affirmative Action Plan are:

1. To ensure equal opportunity in all personnel policies, practices, and collective bargaining agreements through the identification and elimination of practices or policies that discriminate on the basis of race, religion, color, national origin, sex, or age.

2. To increase the utilization of racial and ethnic minorities and women at all levels of employment where underutilization presently exists.

3. To design and implement continuing internal assessment, reporting and modification procedures for the evaluation of the effectiveness of the plan.

4. To develop employee training programs designed to assist employees in complying with the provisions of the plan.

5. To establish procedures within the grievance process for prompt processing of individual or group discrimination charges.

6. To provide for the publication and dissemination, internally and externally, of the Affirmative Action Plan and insure its availability to interested citizens groups.

After the approval of this plan by the Board of Education, ultimate responsibility for the implementation of this plan shall remain with the Superintendent of Schools.

II. WORK FORCE UTILIZATION ANALYSIS

The determination of underutilization of an affected class of employees in School District 1 is based on the identification of criteria which suggest the availability of the class or group in the relevant labor pool. In selecting criteria for determination of underutilization of certificated teaching personnel, we have examined the four factors listed below.

	Racial-Ethnic Minorities ¹				Total Minorities	Sex	
	Black	Spanish-Speaking	Asian	Native American		Women* %	Men* %
% Population in the State	11.4	5.2	0.1	0.4	19.1	51.6	48.4
% Teaching Personnel in State	9.5	1.2	.4	.2	11.3	66.7	33.3
% B.A. Degrees in Education in State	12.0	1.8	.6	.3	14.7	74.6	25.4
% Student Population in District	16.1	5.6	.6	.5	22.8	52.5	47.5

* Includes minorities.

¹ The hypothetical State figures listed represent actual national U.S. statistics with the exception of those on B.A. degrees conferred. State figures are provided in Appendix A. A local district should review these figures and make a determination of their long range goals which demonstrate measurable,

attainable progress toward equality of opportunity. Factors which should be given greatest consideration are those which relate to bona fide job requirements; e.g., possession of B.A. degree, and/or teaching credentials. Consideration of student population should be made, particularly in those districts with large concentrations of racial-ethnic minority populations.

On the basis of the figures listed above, School District 1 is evaluating its underutilization of affected certificated teach-

ing personnel in accordance with the following long term goals:

* This plan is not intended as a definitive model but rather a sample plan which raises questions to be considered. In all instances it needs to be modified, expanded, and tailored for the local situation.

Asian employees	0.6%
Black employees	12.0%
Native-American employees	.3%
Spanish-Speaking employees	.2%

Female employees (includes minorities)	68.0%
Male employees (includes minorities)	32.0%

In determining underutilization of affected groups in administrative positions in School District 1, the following statistical information has been considered:

	Racial-Ethnic Minorities					Sex	
	Black	Spanish-Speaking	Asian	Native American	Total Minorities	Female*	Male*
% Teaching Personnel in District	9.5	1.2	0.4	0.2	11.3	66.7	33.3
% Enrolled for advanced degrees in education (State) ¹	7.2	1.2	.6	.4	9.4	56.7	43.3

* Includes minorities.

¹ These hypothetical State figures on enrollment of racial-ethnic minorities and females are in fact the national proportions reported by Elaine H. El-Khawas and Joan L. Kinser, *Enrollment of Minority Graduate Students at Ph. D. Granting Institutions*, Washington, American Council on Education,

August 1974.

² Although women represent 56.7% of the enrolled graduate students in the field of education, they received 31% of the doctorates in education and 9.3% of the doctorates in educational administration.

On the basis of figures listed above, School District 1 has established the following criteria for the assessment of underutilization of certificated administrative positions within the District:

Asian employees	0.6%
Black employees	7.2%
Native-American employees	.4%
Spanish-Speaking employees	1.2%

Female employees (includes minorities)	30.0%
Male employees (includes minorities)	70.0%

Underutilization of classified staff including instructional aides, professional-technical, secretarial-clerical, foods services, custodial, maintenance, services, supervisors, and managers has been determined on the basis of the composition of the total local labor pool, except as validated job requirements may apply.

Minorities and Men and Women in the Local Labor Force

Percentage in the Local Labor Force	Racial-Ethnic Minorities					Sex	
	Black 11	Spanish-Speaking 1	Asian 1	Native American 1	Total Minorities 14	Women 40.0	Men 60.0

Long-term employment goals for classified staff will correspond to their representation in the local labor pools.

Underutilization in specialized positions; e.g., legal staff, engineers, counselors, etc. will be determined for each posi-

tion on the basis of the representation of the affected groups in the relevant work pools.

Analysis of the present district work force yields the following utilization pattern:

Summary Table of Work Force Utilization*
In School District 1

Job Category	Racial-Ethnic Minorities								Sex		
	Black		Spanish-Speaking		Asian		Native American		Total Minorities	Women	Men
	M %	F %	M %	F %	M %	F %	M %	F %			
Certified Teachers											
Elementary	1	6	—	2	—	1	—	1	11	87	13
Secondary	5	4	1	1	2	1	1	—	15	49	51
Instructional Support	2	3	—	2	—	—	—	1	8	80	20
Principals											
Elementary	2	5	1	—	—	1	—	—	9	16	85
Secondary	1	—	1	—	—	1	—	—	3	2	98
Vice Principals	3	2	2	1	—	—	—	—	8	12	88
Central Administration	6	3	3	1	—	1	—	—	14	24	76

* This is a hypothetical example. Similar tables displaying salary categories should also be prepared.

† Includes minorities.

Analysis of the present District I work force shows the following utilization pattern:

Summary Table of Present Work Force Utilization*

Job Category	Racial-Ethnic Minorities								Sex	
	Black		Spanish-Speaking		Asian		Native American		Women*	Men*
	M %	F %	M %	F %	M %	F %	M %	F %		
Teachers										
Elementary	1	6	—	2	—	1	—	1	87	13
Secondary	5	4	1	1	2	1	1	—	49	51
Instructional Support	2	3	—	2	—	—	—	1	80	20
Principals										
Elementary	2	5	—	—	—	1	—	—	16	64
Secondary	1	—	1	—	—	1	—	—	2	98
Vice-Principals	3	2	2	1	—	—	—	—	12	88
Central Administration										
Classified Personnel	6	3	3	1	—	1	—	—	24	76
Instructional Aides	1	19	2	4	—	3	—	2	82	18
Professional-Technical	6	4	3	1	2	1	1	1	40	60
Secretarial-Clerical	1	9	1	3	—	2	—	1	93	7
Food Services	1	9	—	3	—	1	—	1	96	4
Custodial	13	4	1	1	—	—	—	—	7	93
Maintenance	6	—	1	—	—	—	—	—	1	99
Services (Security, Transportation and Semi-skilled)	26	6	2	1	—	—	—	—	28	72
Supervisors and Managers	5	1	1	—	—	—	—	—	15	85

* This is a hypothetical example. Similar tables displaying salary categories should also be prepared.

By comparing these figures on District staffing patterns with the criteria for measuring underutilization described

earlier, the following pattern of underutilization or present imbalance has been determined:

Job Category	Racial-Ethnic Minorities					Sex	
	Black %	Spanish-Speaking %	Asian %	Native American %	Total Minorities %	Women*	Men*
Certificated Positions							
Teachers							
Elementary	-5	—	+4	+7	-4	+19	-19
Secondary	-3	—	+2.4	+7	-1	-19	+19
Instructional Support	-7	—	-6	+7	-6.9	+12	-12
Principals							
Elementary	-2	-2	+4	-4	-4	-14	+14
Secondary	-6.2	-2	+4	-4	-6.4	-28	+28
Vice Principals	-2.2	+1.8	-6	-4	-1.4	-18	+18
Central Administration	+1.8	+2.8	+1	-4	+4.6	-6	+6
Classified Positions							
Instructional	+9	+5	+2	+1	+17	+42	-42
Professional-Technical	-1	+3	+2	+1	+5	—	—
Secretarial-Clerical	-1	+3	+1	—	-3	-53	+53
Food Services	-1	+2	—	—	+1	-56	+56
Custodial	+6	+1	-1	-1	+5	+33	-33
Maintenance	-5	—	-1	-1	-7	+39	-39
Services	+21	+2	-1	—	+22	-12	+12
Supervisors and Managers	-5	—	-1	-1	-7	-25	+25

* Includes minorities.

Worksheet for Workforce Utilization Analysis

Job Category	Total		Black		Spanish-Surnamed		Native American		Asian	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Category	N	%	N	%	N	%	N	%	N	%
Salary										
Category										
Salary										
Category										
Salary										

III. MODIFICATION OF PRESENT PRACTICES AND PROCEDURES

Recognizing the need to insure equitable administration of personnel policies, the District will institute actions in the following areas:

A. Job Analysis

A job analysis of all employment positions will be completed during the next 6 months. Each position will be reviewed in terms of existing job descriptions, minimal valid job requirements, tasks, job functions, selection procedures, and salary ranges. Performance criteria will be developed for each position. These criteria will be used as guidelines for evaluation, promotion, and hiring of personnel. Any sources of inequity that are identified will be corrected by January 1975.

B. Recruitment and Selection of Personnel

Recognizing the critical importance of effective recruitment and hiring practices in implementation of the District's Employment Affirmative Action Plan, the following procedures will be followed:

1. All job announcements will specify the nature of the job, the information needed from applicants, the name, address, telephone number of the employer, and the person to be contacted for information and application procedures. Every announcement or listing of the position will include the statement that the district is an Equal Opportunity Employer.

2. Efforts will be made to increase recruitment of racial-ethnic minorities and women through the use of non-traditional sources. Some of the recruitment sources that will be used are local news media; local community organizations and schools; newspapers, newsletters, and journals with minority or female audiences; minority and women's organizations; and specialized employment programs. In addition, announcements of all position openings will be made available to all personnel presently employed by the District to provide opportunities for position upgrading.

3. Recruitment from colleges and universities will include institutions with high percentages of students of various racial-ethnic minority groups. Procedures will always include sending notices to placement offices, minority affairs offices, minority student programs counseling centers, and minority student organizations. Interracial recruiting teams will be used whenever possible.

4. All application forms shall collect only that information directly relevant to job performance, and one form shall be used for all applicants for specified job categories.

5. Information requested during interviews shall be related to job performance. Information collected shall be

consistent for all applicants, and no questions should be asked of women that are not asked of men.

6. Since the policy of School District 1 prohibits the employment of more than one member of a single family, this policy shall not be applied inequitably against one sex.

7. Starting salaries shall be determined on the basis of specified qualifications and placement on the appropriate salary schedule. Factors such as marital status, number of dependents, spouse's income, other sources of income, or other non-merit factors shall not be considered in the establishment of salaries.

8. Records of applicants will be maintained to provide a record of applicant flow. These will be identified by race and sex. Other records that will be maintained are lists of individuals and groups contacted in the process of affirmative recruitment, published notices of position openings, lists of notice circulation, and relevant correspondence.

9. All employees with responsibilities for recruitment, hiring, or selection procedures shall by September 1974 be provided training to insure their understanding of the Plan and the required procedures for its implementation.

C. Promotion and Upgrading of Personnel

All individuals responsible for the evaluation, upgrading, and promotion of personnel shall complete a yearly report indicating:

- The promotion records of men, women, and racial and cultural minorities in each employee classification and unit.
- The identification of employees who presently hold positions that underutilize their credentials and abilities.
- The barriers to the upgrading of these employees and recommendations for overcoming these barriers.

Such reports will be collected, analyzed, and reviewed by management, policy making groups, and relevant employee groups.

Efforts will be made to identify a career lattice within the system which can assist the upgrading of employees and the strengthening of team relationships among groups of employees.

D. Assignment of Staff

All staff assignments will be reviewed and assessed on a yearly basis to insure nondiscrimination. Particular consideration will be given to possible bias in:

- the automatic assignment of racial and ethnic minorities and women to specific schools or jobs.
- the assignment of paying and nonpaying extra duty assignments.
- the assignment of overtime duties.
- the opportunities to participate in special events or training programs.

E. Collective Bargaining Agreements

All collective bargaining agreements or professional agreements with the Minto Valley Teachers Association and other employee groups will be examined to be sure that no provisions of the agreement result in discrimination against a protected class or group. If discriminatory provisions are identified, these portions of the contract shall be opened for negotiations to correct the discrimination without reopening negotiation of the total agreement. In addition, arbitration of discrimination grievances shall be in accordance with principles of title VII of the Civil Rights Act.

F. Grievance Procedures

Grievance procedures shall be available to every employee; grievances relating to this plan may be addressed through regular administrative procedures or procedures specified in collective bargaining agreements. During the handling of discrimination complaints or grievances, efforts will be made to insure the inclusion of racial and ethnic minorities and women in the complaint review process to insure non-discrimination in grievance disposition.

G. Employee Fringe Benefits

Examination of employee fringe benefits indicates sources of discrimination. Immediate modifications will be made in policies concerning:

Retirement and Insurance Plans

- Males and females shall be eligible for retirement and pension benefits in the same basis. This includes equality in retirement age and periodic retirement payments.
- Benefits for husbands and families of female employees shall be equivalent to those available to wives and families of male employees.

Pregnancy and Maternity

- No employee shall be required to stop work at a specified time during pregnancy. An individual decision shall be made on the basis of job requirements, personal preference, and medical advisability.
- Return to work after pregnancy shall be based on personal factors and the efficiency of school operation. No requirement shall be made which specifies delay of return to the classroom as an arbitrary requirement.
- Pregnancy, miscarriages, abortion, childbirth and recovery are, for job-related purposes, "temporary disabilities." Policies covering these conditions shall be the same as policies covering other forms of temporary disability.

H. Layoff, Recall, Discharge, and Demotion

All policies pertaining to layoff, recall, discharge, and demotion shall be examined to insure that no practice creates a disparate effect on racial or ethnic minorities or women. Seniority and bumping provisions will be examined to insure that they do not perpetuate past discrimination.

IV. GOALS AND TIMETABLES

The following goals and timetables have been established after careful evaluation of the utilization of racial and ethnic minorities and women in District 1's present work force, the target goals for affirmative action, and the possible sources of discrimination in present District policies and practices. The timetable is based on projected numbers of available job openings; it assumes that the average employee turnover rate of the last 3 years will prevail. Im-

plementation of the Employment Affirmative Action Plan will not adversely affect current employees. Throughout the process of implementation:

1. Job openings will not be created by dismissal of any present employee.
2. Job openings will not be created by demotion of any employee.

It is anticipated that underutilization of certificated teaching personnel can be corrected in 5 years; underutilization of certificated administrative personnel can be corrected in 8 years; and underutilization of classified employees be corrected in 6 years.

The short-term goals specified represent measurable, attainable and significant steps toward affirmative action. It is the intent of District 1 to do everything possible to insure attainment of these goals.

The major objectives and procedures that have been established for the implementation of Employment Affirmative Action are:

- A. To demonstrate commitment to the implementation of an Employment Affirmative Action Plan.
 1. A yearly policy statement reaffirming District 1's commitment to equal employment practices will be issued by the School Board and the Superintendent in June of each year.
 2. A public announcement of the policy of the Board of Education of School District 1 shall be made no later than 1 month after adoption of this Plan.
- B. To identify and modify discriminatory practices.
 1. A job analysis of all certificated and classified positions will be completed 6 months after this plan has been accepted by the School Board.
 2. All applications and selection procedures will be modified to ensure equal employment opportunity by the beginning of the 1974-75 school year.
 3. Any identified salary inequities that exist because of race or sex will be corrected by September 1974. Procedures will be established for yearly monitoring and review of salary schedules.
 4. Any inequities in fringe benefits that exist because of race or sex shall be corrected by January 1975.
 5. Any inequities in the promotion of employees because of sex will be corrected by 1975-76 school year.
 6. Any patterns of staff assignment which suggest discrimination on the basis of race or sex will be corrected by the 1975-76 school year.
- C. To increase School District 1's utilization of racial and ethnic minorities and women, the racial-ethnic minority staff and utilization of women and men will be increased by the following numbers through District hiring practices:

Certificated Staff Teachers	1974-75	1975-76	1976-77
Black	12	12	12
Spanish-Speaking	8	8	8
Asian	2	2	2
Native American	1	1	1
Men (elementary)	18	16	16
Women (secondary)	4	4	4

Special Education Teachers	1974-75	1975-76	1976-77
Black	5	5	5
Spanish-Speaking	4	4	4
Asian	2	1	1
Native American	1	1	1
Men	4	4	4
Librarians	1974-75	1975-76	1976-77
Black	—	1	1
Spanish-Speaking	1	—	1
Asian	1	—	1
Native American	1	—	1
Men	3	2	2
Classified Paraprofessional and Instructional Aides	1974-75	1975-76	1976-77
Men	14	12	12
Professional-Technical	1974-75	1975-76	1976-77
Black	3	3	3
Women	6	6	6
Secretarial-Clerical	1974-75	1975-76	1976-77
Black	2	2	2
Men	4	4	5
Food Services	1974-75	1975-76	1976-77
Black	2	2	2
Spanish-Speaking	2	2	2
Men	4	4	4
Custodial	1974-75	1975-76	1976-77
Spanish-Speaking	1	1	1
Asian	1	1	1
Native American	1	1	1
Women	3	3	3
Maintenance	1974-75	1975-76	1976-77
Black	2	2	2
Spanish-Speaking	2	2	2
Asian	1	1	1
Native American	1	1	1
Women	5	4	4
Services	1974-75	1975-76	1976-77
Spanish-Speaking	1	1	1
Asian	1	1	1
Native American	1	1	1
Women	3	3	3

D. To promote and hire minorities and women by 1977 into administrative and supervisory positions and increase their representation in those groups.

Principals

Junior High School	1 minority	1 woman
High School	1 minority	1 woman
Elementary	3 minority	8 women

Vice Principals and Administrative Assistants

High School	3 minority	2 women
Junior High School	3 minority	4 women

Central Administration

Top Management	2 minority	2 women
Administrative Staff	5 minority	8 women

Instructional Support Staff

(Deans, Department Heads, Counselors, Team Leaders, etc.)

18 minority 18 women

Supervisors and Managers

3 minority 4 women

E. To provide District 1 personnel with opportunities for staff development and the acquisition of competencies needed for career mobility. A staff development program consisting of four components will be initiated in District 1 during the 1974-75 school year. Elements of the program will include:

1. Management Development

—Management courses will be available to certificated and classified employees beginning during the fall of 1974.

—A management intern program to be offered to a minimum of six persons will be initiated in 1974 for the purpose of assisting minorities and women to attain administrative and management skills and knowledge needed to advance into administrative positions within the District.

2. Skills Development

—Training programs will be designed and implemented during the 1974-75 school year to assist minorities and women at all staffing levels increase their skills for upward mobility.

—After the completion of the job analysis of all District positions, the District's needs for specialized competencies and skills will be determined. Training programs designed to provide minorities and women with these specialized skills will be designed and implemented during the 1974-75 school year.

3. General Human Relations

—A general human relations program designed to strengthen positive attitudes towards all persons will be provided all District employees during the 1974-75 school year.

4. Personnel Counseling

—A counseling program will be developed by the Personnel Department to assist employees with career planning, work-associated problems, and where appropriate, personal concerns that would assist career mobility.

V. MONITORING, EVALUATING, AND REPORTING

It is recognized that affirmative action is a continuing process which requires ongoing training, monitoring and evaluation. Within the District, ultimate responsibility for the implementation of the Plan is assigned to the Superintendent of Schools. The Board of Education shall be provided semi-annual reports of the progress of the Plan with any necessary recommendations for modification.

An Advisory Committee on Employment Affirmative Action shall be appointed by the Superintendent. This committee shall require representation of the Board of Education, school administration, employee groups, community organizations, racial and ethnic minorities, and women. This committee shall meet at least quarterly to provide assistance to the Equal Employment Opportunity Officer in reviewing progress and preparing recommendations for necessary modification of the Plan.

A School District employee designated as the Equal Employment Opportunity Officer shall report directly to the Superintendent of Schools. The major duties of this person shall include:

1. To inform District employees of the requirements of the laws as identified by the District's Legal Counsel and the provisions of the Employment Affirmative Action Plan.
2. To assist in implementation and the monitoring of the established goals and timetables for each District administrator with hiring, evaluation and promotion authority.
3. To identify in writing to the Director of Personnel and Superintendent of Schools any employment practice or policy that is discriminatory or that does not meet the requirements of the Employment Affirmative Action Plan and to recommend specific action to correct any such practice or policy.
4. To coordinate under the supervision of the Director of Personnel any investigative and evaluative functions of the Affirmative Action program.
5. To assure that complaints and grievances regarding discriminatory employment practices are investigated and processed according to policy and contractual requirements.
6. To prepare for the Superintendent and Director of Personnel monthly reports indicating identified discriminatory practices, violations of District policy, the complaints and problems relating to fair employment practices, and the corrective measures that have been undertaken.
7. To assure that adequate records are maintained which can be used to evaluate the District's progress in affirmative action.
8. To make semi-annual reports with the Director of Personnel to the Superintendent and Board of Education regarding the Employment Affirmative Action Program and to recommend necessary changes in the program.
9. To serve as the District liaison to those governmental agencies and offices responsible for the enforcement of all fair employment laws and regulations.

10. To assure dissemination of information regarding the District's Affirmative Action Plan to all applicants, employees, and persons, agencies, and companies doing business with the District.
11. To draft for the Superintendent's approval an annual revision of the Affirmative Action Program. Each revision shall include:
 - A status report regarding goals and objectives that have been met and those that have not been achieved.
 - Recommended objectives for the coming year.
 - Revised implementation procedures as required.
 - Specific hiring and placement goals and timetables.

Plan Evaluation

The evaluation of the Plan will be the shared responsibility of the Board of Education, the Superintendent, and the Advisory Committee on Employment Affirmative Action. The procedures for evaluation will include the following:

1. The Personnel Department will prepare a semi-annual report for the Equal Employment Officer which includes the following information:
 - Progress made toward goals set for employment, staff assignment, and staff promotion.
 - The number of minority and women employees hired or promoted to administrative or specialized positions and/or advanced to higher classifications generally.
 - A listing of women and minorities who have completed the District's Management Intern Program and other management courses.
 - A listing of women and minorities at all levels of employment who have completed training needed to move into positions of increased responsibility.
 - The number of employees who have asked for and received counseling.
2. The Equal Employment Opportunity Officer shall prepare semi-annual reports including the data supplied by the Personnel Department, other relevant information on the Affirmative Action Plan and any necessary modifications that are needed.
3. The Superintendent shall annually transmit a final report to the Advisory Committee for review and recommendations.
4. A final annual report incorporating the comments of the Advisory Committee shall be transmitted by the Superintendent to the Board of Education for policy decisions.

Appendix B

Sample Educational Program Affirmative Action Plan for Local Education Agencies

I. POLICY STATEMENT

The educational program of School District 1 has traditionally sought to meet the needs of every student within the District and provide equal educational opportunities for all. We recognize that these goals have not been attained and that some groups of students are denied equality as a result of certain educational practices and policies, school personnel behaviors, and the difficulties inherent in meeting individualized needs of a diverse student population.

The following Educational Program Affirmative Action Plan acknowledges these past inequities and moves toward their systematic correction. It is undertaken as a positive effort to insure District 1's compliance with the letter and the spirit of laws prohibiting discrimination in student programs and practices.

The program is supported by the policy statement adopted by the Board of Education, June 1974:

The policy of School District 1 shall be to provide educational programs for students as needed on the basis of individual interests, values, abilities and potential. There shall be no discrimination against any student because of race, color, religion, national origin, sex, or social class. The primary goals of District 1's educational programs shall be:

1. To provide students with the skills necessary to live productive lives based on their cultural values, preferences, and life styles.
2. To provide experiences that will assist students in the actualization of their full measure of human potential.
3. To prepare students for full and active participation in a changing, democratic society.
4. To alleviate the limiting effects of racial, ethnic, cultural and sex role stereotypes which exist in our society and to facilitate the optimal growth of each student in accordance with his/her individual needs, abilities and interests.

School District 1 shall take all necessary actions to comply with the letter and the spirit of state and federal laws prohibiting discrimination in educational programs.

The development of this Educational Program Affirmative Action Plan is further supported by the provisions of the 1974-75 collective bargaining agreement with the Minto Valley Teachers Association which required development of such plan by January 1975. The Plan also supports the District's good faith efforts to comply with title VI of the Civil Rights Act and title I of the 1972 Education Amendments. The schools have reflected and perpetuated many of the characteristics of our society and its institutions. It is recognized that educational programs of District 1 have sometimes reflected the stereotyping of students by racial and ethnic groups and sex. It is the purpose of this plan to provide a structure for assessing the ways in which students have or may have suffered discrimination on these grounds under past policies or practices of this School District, to develop programs to correct this discrimination, to specify goals and timetables for the accomplishment of these corrective measures, and to provide structures and processes for the monitoring and evaluation of these programs.

The ultimate goal of this Educational Program Affirmative Action Plan is to provide an educational program which affirms the value and supports the development of the potential of every student. The specific goals of the Plan are:

1. To identify sources of discrimination on the basis of racial or ethnic group or sex in educational programs and activities.
2. To take corrective action to insure that no students, on the basis of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any education program or activity.
3. To identify bias in instructional materials and develop programs for securing non-racist, non-sexist materials and supplementary materials.
4. To identify bias in counseling instruments and materials and develop programs for securing non-racist, non-sexist materials which can expand a student's understanding of his/her abilities and options.
5. To provide training for all school personnel which can increase their capability for providing non-stereotyped, affirmative education.
6. To modify the existing curriculum to insure the inclusion of information on the history and contributions of all racial and ethnic groups in U.S. society; and the history and contributions of women.
7. To provide equality of opportunity for all students in physical education and competitive sports programs.
8. To insure that extracurricular activities and recognition of student achievement provide equality of opportunity for all students.
9. To insure that all policies concerning the treatment of students are implemented in a non-discriminatory fashion.

II. PROGRAM ANALYSIS AND MODIFICATION

The primary purpose of this analysis of the educational program provided students in School District 1 is to identify areas of discrimination or stereotyping and to initiate corrective measures. The following problem areas have been identified to date. A continuing activity of the implementation of the Educational Program Affirmative Action Plan will be the systematic analysis of all programs in a continuing study of possible sources of bias.

Textbooks and Instructional Materials

The bias and stereotyping of textbooks and instructional materials have been well documented in numerous national studies. The Minto Valley Women's Task Force made a study of materials used in the first three grades in the District and documented the relative omissions and biased treatment of racial and ethnic minorities and women. Materials currently being used tend to perpetuate images of white, middle-class suburban persons living in traditional families.

In view of the prevalence of this situation, the following steps will be taken:

1. A Committee on Instructional Materials made up of representatives of community groups, teachers, curriculum specialists, and students shall be appointed by the Superintendent to examine existing guidelines and recommendations for the selection of classroom materials and develop a set of evaluative guidelines regarding the examination of bias in instructional materials, to be distributed to all personnel and interested students in District 1.
2. The Instructional Materials Committee will work with students of Minto Valley College in carrying out a study of the images of racial and ethnic minorities and women in materials currently used in the District.
3. The Instructional Materials Committee will be asked to prepare a set of specifications for future purchases of instructional materials and copies of these specifications shall be transmitted to all companies and vendors who conduct business with the District.
4. An 8-hour inservice training program will be provided for all teachers and instructional staff in the District. This program will provide teachers with content analysis techniques, supplementary materials resources, and strategies and activities which can be used in the classroom to reduce the effects of biased materials.
5. Two staff members of the curriculum unit will be assigned responsibility for the identification of supplementary materials and the development of teaching materials which can assist teachers in reducing the effects of biased materials.
6. At least one third of the funds available for library and instructional materials acquisition will be allocated for the purchase of supplementary materials to reduce race and sex bias.

School Personnel Behavior

The importance of the behavior of school personnel to the developments of students has been documented in a number of national studies. It is through interaction with school personnel—teachers, counselors, administrators, cafeteria workers, bus drivers and other staff—that students are exposed to a hidden curriculum which provides messages as to who they are, how they are valued, and what they may become.

Because school personnel often reflect knowingly or unknowingly, the biases and stereotypes of the larger society and communicate these to students, it is important that all staff of School District 1 become sensitive to these issues. To this end, School District 1 will:

1. Provide a mandatory 12-hour human relations inservice training program for all staff during 1974-75 school year. This will include coverage of the concepts of bias, stereotyping, and discrimination on the basis of racial or ethnic group or sex.
2. Provide mandatory training sessions aimed at increasing specialized skills and competencies of teachers, counselors, and administrators that are crucial to non-discriminatory education. These sessions would be individualized to fit the job related tasks of each group;

they are described in greater detail in the timetable section of this Plan.

Assignment of Schools, Courses, and Student Groupings

The assignment of students to various schools in the District and course offerings has generally been carried out on the basis of convenience and tradition. Last year a thorough study of the assignment pattern of students revealed racial sorting. Shifts in school assignment have already addressed these concerns by insuring integrated education in all schools.

Less obvious forms of stereotyping and bias on the basis of race or sex are now being identified. In elementary schools, ability groupings have often resulted in the segregation of students by race or sex. At the secondary level, it has been observed that vocational courses and some of the advanced mathematics and language courses are similarly segregated. It is the policy of District 1 to encourage students' individual choice, but it is equally important that students be encouraged to develop their full potential and examine all alternatives available to them.

The following measures will be taken to reduce stereotyping and encourage maximal development and consideration of options for all students:

1. Teaching supervisors will prepare guidelines on the use of small group activities in the classroom. These guidelines will contain suggestions on the effective use of groupings in the classroom and the avoidance of *de facto* segregation in the classroom. They will be discussed with each teacher in the District.
2. Administrative staff shall prepare guidelines on the assignment of students to courses and activities. These will be discussed with all staff with responsibility for student guidance or placement.
3. A "survival" course which combines living skills related to former home economics courses and shop and mechanics courses will be developed for middle school levels. This coeducational course will be required for all students.
4. All vocational education courses will be open to students of both sexes.
5. Counseling staff will be directed to examine overt practices which result in race or sex tracking in student programs.
6. A re-evaluation of Career Day programs presently held in the District will be undertaken. Efforts will be made to insure the involvement of diverse role models from the community in the program. This will include representation of various racial-ethnic groups and women in the skilled trades, service occupations, professional and technical occupational groups.

Physical Education and Competitive Sports

Research has documented an increasing amount of evidence regarding the importance of quality physical education programs for all age groups to insure optimal physical and mental functioning. It has become apparent that many of our programs do not provide opportunities for maximal physical development of all students. Further, we have noted that many students with a high level of physical skills are denied opportunities for competitive sports experiences which have important self-image, economic and achievement outcomes.

The policies of School District 1 will be modified in the following ways:

1. The physical educational staff will be directed to develop a coeducational physical education curriculum for the elementary grades which will insure optimal physical functioning for all students. Efforts will be made to provide instruction by female-male teams of instructors whenever possible.
2. All physical education programs at secondary level will be conducted on a coeducational basis. Special sports activities and courses will be open to members of both sexes in accordance with student interests.
3. A survey of student interest in individual and team sports shall be made at the middle school and secondary school levels. When there is sufficient interest in various competitive team sports, opportunities will be provided to both girls and boys for instruction, facilities, and competitive opportunity.
4. Opportunities for participation in physical education and sports programs may not be differentiated by sex. This includes use of facilities, uniforms, coaching staff, travel, etc. Equality of expenditures between boys and girls sports will be provided on a per capita basis of the students participating in competitive sports programs.

Counseling and Guidance

Counseling services within School District 1 have been provided in three primary areas—educational counseling, personal counseling, and career and vocational counseling. Numerous instruments for educational and psychological assessment have been used in carrying out these services. Insufficient attention has been given to the ways that achievement, psychological, and vocational interest tests reflect cultural biases. In view of the possible inequities perpetuated by the use of such tests and related counseling experiences, the following steps will be taken:

1. The counseling staff will be directed to identify existing guidelines for the use of tests and instruments and develop appropriate guidelines for School District 1. These will be supplied to test vendors.
2. When non-racist, non-sexist tests can be identified, they will be used in preference to biased tests.
3. All members of the counseling staff will be provided a minimum of 16 hours of inservice training on the interpretation and use of tests with varied racial and ethnic minorities and women.
4. Efforts of the Employment Affirmative Action Plan will be directed to increasing racial and ethnic minority representation on the counseling staff.

Student Services and Policies

It is recognized that school policies often reflect traditional stereotypes and attitudes that may not be consonant with the best interest of the student. The following areas have already been identified as problem areas and continuing efforts to identify other possible sources of bias will be undertaken:

1. *Student Participation in Community Affairs.*
During the past few years outstanding male students

have been permitted special privileges of participating in a youth leadership development program sponsored by local service clubs. The highlight of this activity is a 2-week internship in local and state government. It shall be the policy of School District 1 to discontinue this participation unless the program is extended to female students.

2. *Student Pregnancy Policies.*

The present policy of School District 1 is to require pregnant students to discontinue school or attend Grant School for pregnant students. This policy will be modified in that pregnant students will be permitted to attend school based on their individual preferences. They may remain in the school that they normally attend or use the services of Grant School.

3. *Student Honors and Scholarships.*

School District 1 has assisted numerous organizations to select honors and scholarship recipients. It has been documented that a high proportion of these are designated exclusively for male students. It shall be the policy of School District 1 to refuse to participate in such programs unless they are open to all students.

4. *Differential Disciplinary Actions.*

The application of differential disciplinary policies on the basis of race or sex has been observed in several instances. It is the policy of School District 1 that standard enforcement of disciplinary policies and procedures will be applied. To implement this policy the following actions will be taken:

- All school personnel will be provided with guidelines indicating the need for consistent application of disciplinary policies and detailing past sources of inconsistency.
- A procedure for receiving student complaints and appealing disciplinary decisions will be jointly determined by administrative staff and student government groups.
- Procedures of the Employment Affirmative Action Plan will work toward the greater representation of racial and ethnic minorities and women in administrative positions.

III. GOALS AND TIMETABLES

The following goals and timetables have been established for moving School District 1's educational program toward true equality of opportunity and compliance with State and Federal laws prohibiting discrimination in educational programs. It is anticipated that specific sources of discrimination identified to date can be corrected by the opening of the 1975-76 school year. Continuing problems of discrimination that may be identified will be addressed as quickly as possible and included in subsequent modifications of the Educational Employment Affirmative Action Plan.

The major goals and objectives that have been established for the implementation of Educational Affirmative Action are:

- A. To demonstrate commitment to the implementation of an Education Program Affirmative Action Plan.
 1. A yearly policy statement reaffirming School District 1's commitment to equal education for all

students will be issued by the School Board and the Superintendent in June of each year.

2. A public announcement of the policy of School Board 1 shall be made no later than 1 month after this plan is approved by the Board of Education.

B. To modify identified discriminatory practices. Identified discriminatory practices in the following areas will be modified:

Textbooks and Instructional Materials

1. A Committee on Instruction Materials will be appointed by October 1975. The functions of this Committee will be:
 - The development of guidelines for examination of instructional materials by January 1976.
 - The initiation of a study of the images of minorities and women in existing materials to be completed by May 1976.
 - The development of a set of specifications for future purchases of instructional materials by January 1976.
 - The review of progress of affirmative action efforts related to textbooks and instructional materials on a semi-annual basis.
2. The Curriculum Department of School District 1 will be given the responsibility for:
 - Design and implementation by May 1976 of an 8-hour in-service training course for all teachers and instructional staff which will provide them with awareness, understanding, and action ideas for reducing the effects of biased materials.
 - The identification of supplementary materials for use in the classroom and the development of teaching materials which can assist instructional staff by May 1976.
 - Provisions of assistance to school librarians and instructional staff in the identification of non-racist, non-sexist supplementary materials for purchase throughout the 1975-76 school year.

Assignment of Schools and Student Groupings

1. Teaching supervisors will prepare guidelines on the use of small group activities in the classroom which will be discussed with every teacher by January 1976.
2. Administrative staff shall prepare guidelines on the assignment of students which will be discussed with relevant staff by January 1976.
3. Coeducational "survival" sources will be developed and required for middle school and secondary school students as of January 1976.
4. All vocational education courses, programs or schools will be open to students of both sexes by September 1975.
5. Counseling staff will be directed to examine discriminatory practices which may limit the participation of youth in vocational programs by January 1976.

Physical Education and Competitive Sports

1. A coeducational physical education program will be developed for elementary and secondary students by January 1976.
2. Students will be provided physical education instruction by teams of male-female instructors to the extent possible.
3. A survey of student interest in individual and team sports shall be made in middle schools and secondary schools by January 1976.
4. A competitive sports program will be designed based on identified student interest which will provide equality of opportunity to all students by September 1976.
5. A review of the availability of opportunities for student participation, use of facilities, provision of coaching services, and equipment will be made on a yearly basis with the first report being made to the Equal Employment Opportunity Officer and the Superintendent by January 1976. This shall include a comparison of per capita expenditures for males and females with equalization being achieved by 1977-78.

Counseling and Guidance

1. The counseling staff will develop guidelines for the use of tests and instruments which shall be provided for test vendors by January 1976.
2. A 16-hour training program on the use and interpretation of biased instruments will be designed by the Counseling department and provided for all staff members by May 1976.

Student Services and Policies

1. A statement of School District 1 outlining its policy of noncooperation with community groups that discriminate on the basis of race or sex shall be developed and made available to community groups by December 1975.
2. A statement of policy indicating the rights of pregnant students to remain in their present school or attend Grant School shall be developed and circulated to all administrative staff by November 1975.
3. A policy on schools' assistance in the selection of students for honors or scholarships specified by race or sex will be developed and made available to all individuals and groups with requests for such assistance by January 1976.
4. A set of guidelines of uniform disciplinary policies and student grievance procedures will be developed by January 1976.

IV. MONITORING, EVALUATING, AND REPORTING OF THE PLAN

Education program affirmative action is an ongoing process which requires continuous monitoring, evaluating, and modifying if it is to have effective results. Within the District, ultimate responsibility for the implementation of the

Plan is assigned to the Superintendent of Schools. The Board of Education shall be provided semi-annual reports of the progress of the Plan with recommendations for any necessary modification.

An Advisory Committee on Educational Program Affirmative Action shall be named. This committee shall require representation of the Board of Education, school administration, curriculum supervisors, racial and ethnic minority groups, women, teachers, students. This committee shall meet at least quarterly to provide assistance to the Equal Education Officer in reviewing progress and preparing recommendations for necessary modification of the Plan.

A school district employee designated as Equal Education Officer shall report to the Equal Employment Opportunity Officer. This position is envisioned as a temporary position; responsibilities would ultimately be assumed by the Equal Employment Opportunity Officer. The responsibilities of this position shall include:

1. To inform District employees and students of the law as specified by Federal and State regulations for enforcement of anti-discrimination laws, the District's Legal Counsel, and the provision of the Educational Program Affirmative Action Plan.
2. To assist in the implementation and monitoring of the goals and timetables established in the Plan; and to insure the continuing identification and elimination of other possible sources of discrimination or stereotyping.
3. To identify in writing to the Equal Employment Opportunity Officer any policy or practice covering the treatment of students or delivery of educational services that does not meet the requirements of the Educational Program Affirmative Action Plan and to recommend specific actions to correct such practices. This report will be submitted to the Superintendent of Schools.
4. To coordinate under the supervision of the Equal Employment Opportunity Officer and the Director of Curriculum the investigative and evaluative functions of the Plan.
5. To make, with the Equal Employment Opportunity Officer and Director of Curriculum, semi-annual reports to the Superintendents of Schools and Board of Education regarding the implementation of the Edu-

cational Program Affirmative Action Plan and to recommend necessary changes in the program.

6. To assure dissemination of information regarding the District's Plan and its progress to all students, community groups, employees, and persons, agencies and companies doing business with the District.
7. To draft for the Equal Employment Opportunity Officer's approval an annual revision of the Educational Program Affirmative Action Plan. The revisions shall include:
 - Recommended objectives for the coming year.
 - Revised implementation procedures as required.
 - Specific actions that should be undertaken.

Plan Evaluation

The evaluation of the Educational Program Affirmative Action Plan will be the shared responsibility of the Board of Education, the Superintendent, and the Advisory Committee on Educational Program Affirmative Action. The procedures for evaluation shall include the following:

1. The collection of data from relevant departments. Each department with responsibilities assigned by the Equal Education Officer shall prepare a semi-annual report for the Equal Education Officer which includes the following:
 - An assessment of progress made toward fulfillment of assigned responsibilities.
 - A listing of remaining problems.
2. The Equal Education Officer shall prepare a composite report on the materials obtained and other relevant data for the Equal Employment Officer. This report shall include recommendations for future action and general observations of the progress of the Plan.
3. The Equal Employment Opportunity Officer shall prepare a final report for submission to the Superintendent of Schools.
4. The Superintendent of Schools shall transmit a final report to the Advisory Committee on Educational Program Affirmative Action for review and recommendations.
5. A final report incorporating the comments of the Advisory Committee shall be transmitted by the Superintendent to the Board of Education for policy decisions.

Appendix C

Employer's Checklist on Equal Employment Opportunity

Effective Personnel management is a complex and critical task for employers. The enactment of State and Federal anti-discrimination laws has created the need for new procedures and practices to insure equal employment opportunity. The following checklist is designed to assist administrators and personnel managers in considering the adequacy of their present employment practices and procedures in relation to equal employment opportunities.

I. GENERAL EMPLOYMENT POLICY

A. Policy Statements

Yes No

1. Has the Board of Education or Trustees considered the need to insure equal employment opportunity and developed a statement to that effect? — —
2. Have the employment policy statements been reviewed to insure compliance with State and Federal laws? — —
3. Are copies of the policy printed and made available on request? — —
4. Have guidelines or regulations been developed for internal staff to insure implementation of equal employment opportunity policies? — —
5. Have responsibilities for the implementation of EEO policies been delegated to appropriate staff persons? — —
6. Have copies of these policies been disseminated to staff and discussed? — —
7. Have copies of the policies been disseminated to public groups with interest in the school system? — —

II. PERSONNEL POLICIES

A. Recruitment and Selection

1. Have written procedures for nondiscriminatory recruitment and selection been prepared? — —
2. Are all persons with responsibilities for recruitment and selection familiar with these procedures? — —
3. Have efforts been made to identify and maintain contact with nontraditional recruitment sources that would assist in the identification of minority groups and women? — —
4. Do recruiting methods (e.g., composition of recruiting and interviewing staff, use of media for announcements, etc.) reflect active efforts to recruit minorities and women? — —
5. Do recruitment announcements contain the phrase that the employer is an equal opportunity employer and use graphics that reflect the diversity of staff? — —

Yes No

6. Have application forms been reviewed to insure the elimination of discriminatory questions? — —
7. Have guidelines for personnel interviews been prepared to insure nondiscriminatory questions and have staff members been briefed on the rationale for these guidelines? — —
8. Have criteria for the review of applications to insure objective ratings of applicants in terms of the performance standards for the job been prepared and disseminated to staff? — —
9. Is an applicant flow record which provides documentation of applications, disposition of applicants and the reasons for the disposition actions maintained? — —
10. Are files maintained of potential applicants and effective recruiting sources? — —

B. Promotion and Training

1. Have job descriptions been developed on the basis of performance criteria? — —
2. Has a plan for horizontal and vertical career development been formulated? — —
3. Is regular in-service training and staff development opportunity provided for employees? — —
4. Do employees have opportunities for career counseling? — —
5. Are records of an employee's performance and training maintained? — —
6. Have criteria and procedures for employee evaluation been developed? — —
7. Have seniority policies been reviewed to identify and eliminate provisions which discriminate against minority employees and women? — —
8. Has a review of promotion procedures and records been made to identify and eliminate sources of discrimination against minority employees and women? — —

C. Compensation and Fringe Benefits

1. Has an analysis of compensation been made to insure that all positions requiring equality of skill, effort, or responsibility under similar working conditions are paid equally? — —
2. Has a review of the average salaries of minority employees and women been conducted to insure equal pay for equal work? — —
3. Has a review of the patterns of special compensation (e.g., in extra duty pay, over-

- Yes No
- time pay, etc.) been made to insure fairness to all individuals and groups of employees? — —
4. Are insurance plans (health, life, and travel) and benefits provided for all employees equal and non-discriminatory? — —
5. Are maternity leave policies handled in the same manner as those applying to other forms of temporary disabilities? — —
6. Are retirement benefits for male and female employees equal (equal benefits and equal contributions)? — —
7. Are opportunities for training and travel provided to employees on an equal basis? — —

D. Administration and Grievances

1. Has a review of employee assignments been conducted to insure nondiscriminatory assignment of staff? — —
2. Do employees have adequate structures and procedures for the articulation and conciliation of grievances? — —
3. Do personnel with responsibility for administration and grievance handling reflect a diversity of racial-ethnic and sexual composition of the staff? — —
4. Are records of grievance handling maintained and are periodic reviews made to insure nondiscriminatory handling of grievances? — —
5. Are summary reports of applicant flow, staff assignment, promotion, grievance handling, and training programs made to chief administrative staff and school governance on a regular basis? — —
6. Has a staff member been designated as Equal Employment Opportunity Officer who reviews, coordinates, and develops programs to insure compliance with the law and the monitoring of the agency/institution to insure non-discrimination in administration of school policies and programs? — —

III. EMPLOYMENT AFFIRMATIVE ACTION PLANS

1. Has an affirmative action plan for the identification and remediation of discriminatory practices and policies in employment been developed? — —
2. Does the affirmative action plan include sections on statement of policy, work force utilization analysis, examination of present policies and practices, numerical goals and timetables, and procedures for monitoring, evaluating, and updating? — —

- Yes No
3. Does the work force utilization analysis include analysis of the work force by salary, by unit, by race, by sex, and by race and sex (to determine utilization of minority females)? — —
4. Have appropriate staff been designated for the implementation of the Employment Affirmative Action Plan? — —
5. Have all staff with responsibilities for interviewing, hiring, and evaluating employees been provided information and guidance as to their responsibilities for equal employment opportunities? — —
6. Are copies of the affirmative action plan made available to all employees and interested citizens? — —
7. Have procedures been made for citizen review of the plan and do these procedures include representation of ethnic and cultural minorities and women? — —
8. Have procedures for regular updating of the plan been included? — —

IV. COLLECTIVE BARGAINING AGREEMENTS

1. Have collective bargaining agreements been reviewed to insure the elimination of discriminatory provisions? — —
2. Are rates of compensation equal within job categories? (e.g., male and female coaches) — —
3. Do seniority and bumping provisions result in a disparate effect on minorities and women? — —
4. Are maternity leave clauses consistent with leave benefits provided for other temporary disabilities? — —
5. Do retirement benefits provide for uniform retirement age and equal benefits for males and females? — —
6. Do insurance benefits (hospital and life) provide uniform benefits for male and female staff, and for the families of male and female staff? — —
7. Do grievance procedures include specification of methods for fair investigation and redress of grievances based on sex or race discrimination? — —
8. Does the contract contain a clause permitting the modification of a portion that may be determined illegal without the re-opening of total contract negotiations? — —
9. Does the contract specify that arbitration of discrimination grievances shall be in accordance with Title VII principles? — —

Appendix D

Guidelines for Evaluating an Employment Affirmative Action Plan

1. Does the Affirmative Action Plan contain the following five major elements:
 - A statement of policy and purpose
 - A work force utilization analysis
 - Procedures for examination and modification of current policies and practices
 - A section establishing numerical goals and timetables
 - Specification of monitoring and evaluation procedures
2. Does the policy and purpose element include the following specifications:
 - A statement of general intent
 - A specification of objectives which provide a framework for understanding the plan
 - References to relevant policies previously established by the agency or institution
 - A designation of ultimate responsibility/accountability for implementation of the plan
3. Does the work force utilization analysis element include the following statistical and demographic data:
 - A listing of each job classification (including supervisory and managerial jobs) as it appears in applicable collective bargaining agreements or payroll records
 - A ranking of positions from the lowest paid to the highest paid within each unit or department, including supervisors of units or departments
 - Wage rates or salary ranges for each job classification
 - Total numbers of incumbents for each job classification by sex
 - Total numbers of incumbents for each job classification by sex and minority status for each of four categories:
 - Blacks
 - Spanish-Surnamed
 - Native-Americans
 - Asians
 - Criteria for determining the representation of affected classes in the work force which would signify adequate utilization of these groups. These would be based on:
 - Delineation of valid job related requirements
 - Statistical information on the availability of members of affected groups with relevant skills (the relevant potential labor pool)
 - Information regarding the promotion and transfer eligibility and availability of present staff
 - Consideration of employer capability to provide training resources for staff development
 - Statistical information on applicant flow or the percentages of qualified job applicants from affected classes
4. Does the element concerning modification of present procedures and practices establish such systematic processes for identifying and eliminating major sources of bias and discrimination as:
 - A job analysis to establish
 - Consistency of job descriptions across all organizational units or departments
 - Realistic performance criteria for job evaluation
 - A review of recruitment and selection procedures to develop
 - Rosters of recruitment sources particularly representative of qualified minorities and women
 - Affirmative and nondiscriminatory notices and advertising of employment opportunities
 - Recording systems adequate to permit identification of discriminatory practices or policies and evaluation of progress toward equal employment opportunity
 - Application forms which require only information related to job performance and are consistent for all positions within a job category
 - Guidelines for personnel interviews to insure that all questions asked are relevant to job-related information and that no questions are asked of members of one racial or ethnic group or sex which are not asked of all applicants
 - A salary schedule which is consistent with comparable job classifications
 - Nepotism policies which do not discriminate on the basis of sex
 - Modifications of any provisions of the collective bargaining agreement which may be inconsistent with these revised procedures
 - An examination of hiring procedures and the provision for:
 - The review of applications, referrals, handling of applications, and hiring patterns of a person with a central responsibility for affirmative action
 - The recording of failures to hire persons in the affected group and the documentation of reasons for such failures in order to document good faith intent
 - A review and modification of promotion and upgrading practices and policies based upon:
 - The promotion records of men, women, and minorities of both sexes in each employee classification and unit
 - The identification of employees who hold positions that underutilize their abilities or credentials
 - The identification of barriers to the upgrading of women and minority employees and specification of steps to overcome these barriers
 - The development of career ladders facilitating vertical and lateral movement of employees
 - Examination of the assignments of staff and the revision of policy or practice to ensure:
 - Equity in assignment to all organizational units

- Equity in the assignment of paying and nonpaying extra duty
 - Equity in assignment of overtime duties
 - Equity in access to special events and training programs
 - Renegotiation of any provisions of collective bargaining agreements which are found to be inconsistent with EEO policy. These might include provisions relating to:
 - Seniority and bumping
 - Promotion
 - Hiring
 - Rates of compensation
 - The development of grievance procedures to insure just handling of complaints related to the Plan, including those relating to hiring, promotion, and training.
 - A review of fringe benefit packages to ensure the provision of equal benefits to all employees. This includes equity in the following benefits:
 - Medical
 - Hospital
 - Accident and life insurance
 - Retirement (contributions and periodic payments)
 - Leave
 - The development of pregnancy and maternity policies which require that:
 - Time to cease work or return to work must be determined on an individual basis
 - Pregnancy, miscarriages, abortion, childbirth, and recovery are, for job-related purposes, "temporary disabilities" and are to be treated as other temporary disabilities
 - The child rearing leave which is available to females is also available to males
 - The review of layoff, recall, discharge, and demotion policies to ensure that:
 - Standards are the same for all employees
 - Seniority or bumping provisions which perpetuate discrimination are identified and modified
5. Do the numerical goals and timetables of the plan reflect the following:
 - Accurate analysis of work force utilization
 - Timetables developed from projected turnover rates and employment needs
 - Utilization considered by unit and departments as well as for the total work force of an employer
 - Long range utilization goals
 - Intermediate annual targets
 - Goals which are measurable, attainable, and related to specific timetables
 6. Does the monitoring and evaluation element include specifications which insure the following:
 - Designation of responsible persons with sufficient authority to implement the plans and procedures for monitoring, evaluating, and reporting
 - The development and communication of clear guidelines for staff responsible for recruiting, hiring, interviewing, etc., and provisions for training these staff members of the implications of these guidelines for their job performance
 - Maintenance of applicant flow records which identify the employment decision-maker and provide significant data concerning the applicant and disposition of the application
 - Development of procedures for semi-annual progress reports and yearly review of the Plan.
 - Yearly modification of Plan to reflect progress achieved, and new problems identified
 - Provisions are made for dissemination of progress reports and evaluations to policy makers, all employees and interested members or groups of the community

Appendix E

Guidelines for Evaluating an Educational Program Affirmative Action Plan

Program affirmative action may be defined as action taken, first, to identify and remedy sources of discrimination in school programs, and second, to develop policies and procedures for the prevention of such discrimination in school programs.

1. Does the Program Affirmative Action Plan include the following major elements:
 - A statement of policy and purposes
 - Specification of procedures and for analysis and modification of educational programs
 - A statement of goals and objectives which include timelines for their achievement
 - Delineation of evaluating, monitoring, and reporting procedures
2. Does the policy statement outline the following:
 - The nondiscriminatory intent of the district or institution with references to earlier relevant policy actions
 - A statement of purposes and objectives which can summarize and provide a frame of reference for considering the Plan
3. Does the section on education program analysis and modification include consideration of the following possible sources of discrimination or stereotyping:
 - Existence of bias in textbooks and instructional materials
 - Reflection of racial or sex role bias or stereotypes in the behavior of school personnel
 - Systematic inequity in the assignment of students, staff, or special resources to particular schools rather than all schools
 - Existence of sex segregation in such courses as mathematics, science, vocational education, or in extra-curricular activities, or classroom groupings
 - Inequities in allocations of resources, facilities, equipment, time, and number of activities in physical education and competitive sports
 - Inequities in student services or practices such as counseling and testing and health services
 - Inequities in student policies concerning discipline, student government, student pregnancies, etc.
 - Inequity in participation in extra-curricular activities, honors societies, scholarship programs, etc.
4. Do the goals, time lines, and statements of objectives include the following:
 - Specific corrective action to eliminate identified sources of discrimination
 - Specific statements of objectives, goals, and time lines by which the implementation of corrective actions may be evaluated
 - Specific intermediate target goals, and long range goals which are measurable and attainable
 - Specific time lines which are realistic and attainable for achieving corrective actions
5. Do the evaluating, monitoring, and reporting procedures reflect the following:
 - Appointment of a Committee on Educational Program Affirmative Action
 - Designation of responsible persons with authority to implement the plans and procedures for monitoring, evaluating, and reporting progress
 - Requirements and timeliness for the development and communication of guidelines to staff responsible for identifying, implementing, monitoring, and evaluating corrective actions and the provision of training for all such staff regarding the implications of the plan for their job performance
 - Requirements for the maintenance of records which identify the program decision-makers and significant data concerning the correcting actions and the degrees of progress in achieving corrective actions
 - Specifications of procedures for semi-annual progress reports and yearly reviews of the Plan, with provisions for:
 - Yearly modification of the Plan to reflect the progress achieved and new sources of discrimination identified
 - Dissemination of progress reports and evaluations to all interested staff, students, and community members

Appendix F

Office of Federal Contract Compliance Regional Offices

Boston Regional Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
JFK Bldg., Room 1612-C
Government Center
Boston, Massachusetts 02203
Telephone: 617/223-4232

New York Regional Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
1515 Broadway—Room 3306
New York, New York 10036
Telephone: 212/971-5563

Philadelphia Regional Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
Gateway Building—Room 15434
3535 Market Street
Philadelphia, Pennsylvania 19104
Telephone: 215/597-1213/16

Atlanta Region Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
1371 Peachtree St., NE—Room 720
Atlanta, Georgia 30309
Telephone: 404/526-4211

Chicago Regional Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
854 Everett M. Dirksen Bldg.
219 South Dearborn Street
Chicago, Illinois 60604
Telephone: 312/353-7622

Cleveland Area Office
Equal Opportunity Specialist, OFCC
U.S. Department of Labor
803 Federal Building
1240 East Ninth Street
Cleveland, Ohio 44199
Telephone: 216/522-3882

Dallas Regional Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
1100 Commerce Street—Room 13-F-12

FOB & U.S. Court House
Dallas, Texas 75202
Telephone: 214/749-1134

Kansas City Regional Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
Federal Office Bldg.—Room 2000
911 Walnut Street
Kansas City, Missouri 64106
Telephone: 816/374-5384

Denver Regional Office
Associate Assistant Regional Director, OFCC/ESA
15412 Federal Office Building
1961 Stout Street
Denver, Colorado 80202
Telephone: 303/937-4978

San Francisco Regional Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
Federal Building—Room 10341
450 Golden Gate Avenue
San Francisco, California 94102
Telephone: 415/556-3597

San Francisco Area Office
Equal Opportunity Specialist, OFCC
U.S. Department of Labor
Phelan Building—Room 409
760 Market Street
San Francisco, California 94102
Telephone: 415/556-6017

Los Angeles Area Office
Equal Opportunity Specialist, OFCC
U.S. Department of Labor
Federal Building—Room 4345
300 North Los Angeles Street
Los Angeles, California 90012
Telephone: 213/668-4961

Seattle Regional Office
Associate Assistant Regional Director, OFCC/ESA
U.S. Department of Labor
1911 Smith-Tower
506 Second Avenue
Seattle, Washington 98104
Telephone: 206/442-4508

Appendix G

Equal Employment Opportunity Commission Regional Offices

OFFICES

ATLANTA REGIONAL OFFICE

Citizens Trust Building
Suite 1150
75 Piedmont Avenue, N.E.
Atlanta, Georgia 30303
(404) 426-6991

CHICAGO REGIONAL OFFICE

600 South Michigan Ave., Rm. 611
Chicago, Illinois 60605
(312) 353-1223

DALLAS REGIONAL OFFICE

1100 Commerce St., Rm. 5A 4
Dallas, Texas 75202
(214) 749-1841

KANSAS CITY REGIONAL OFFICE

601 E. 12th St., Rm. 113
Kansas City, Missouri 64106
(816) 374-2781

NEW YORK REGIONAL OFFICE

Federal Office Building
Room 4000
26 Federal Plaza
New York, New York 10007
(212) 264-3640

PHILADELPHIA REGIONAL OFFICE

Jefferson Building
1015 Chestnut Street
Philadelphia, Pennsylvania 19107
(215) 597-7784

SAN FRANCISCO REGIONAL OFFICE

300 Montgomery St., Suite 740
San Francisco, California 94104
(415) 556-0775

STATES

Alabama, Canal Zone, Florida, Georgia, Kentucky, North Carolina, Mississippi, South Carolina, Tennessee

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Iowa, Kansas, Missouri, Nebraska

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, North Dakota, Oregon, Samoa, South Dakota, Utah, Wake Island, Washington, Wyoming

Appendix H

Office for Civil Rights, H.E.W. Regional Offices

Requests for additional information regarding the HEW civil rights compliance program may be directed to the Office for Civil Rights in Washington, D.C. or to the Regional Office serving your State

DHEW REGIONAL OFFICES FOR CIVIL RIGHTS

- Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont):
RKO General Building
Bulfinch Place
Boston, Massachusetts 02114
(617) 223-6397
- Region II (New Jersey, New York, Puerto Rico, Virgin Islands):
26 Federal Plaza
New York, New York 10007
(212) 264-4633
- Region III (Delaware, D.C., Maryland, Pennsylvania, Virginia, West Virginia):
Gateway Building
36th and Market Streets
Post Office Box 13716
Philadelphia, Pennsylvania 19104
(215) 597-6772
- Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee):
50 Seventh Street, N.E.
Atlanta, Georgia 30323
(404) 526-3312
- Region V (Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin):
309 West Jackson Boulevard

- Chicago, Illinois 60606
(312) 353-7742
- Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas):
1114 Commerce Street
Dallas, Texas 75202
(214) 749-3301
- Region VII (Iowa, Kansas, Missouri, Nebraska):
Federal Building
601 East 12th Street
Kansas City, Missouri 64106
(816) 374-3667
- Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming):
Federal Building
1961 Stout Street
Denver, Colorado 80202
(303) 837-4345
- Region IX (Arizona, California, Hawaii, Nevada):
Phelan Building
760 Market Street
San Francisco, California 94102
(415) 556-8586
- Region X (Alaska, Idaho, Oregon, Washington):
608 Arcade Bldg. M/S 616
1321 Second Avenue
Seattle, Washington 98101
(206) 442-0473

U.S. DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
Office for Civil Rights
Washington, D.C. 20201—(202) 245-7320

Appendix I

Elementary-Secondary Staff Information (EEO-5)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ELEMENTARY-SECONDARY STAFF INFORMATION (EEO-5) <i>Public school systems (Schools and Annexes)</i>		FORM APPROVED BY GAO B-180541 (R0048) EXPIRES 12-31-78 This is a joint requirement of the EEOC and Office for Civil Rights and the National Center for Education Statistics of the Department of Health, Education, and Welfare.	
NOTE: Instructions for filing are given in the enclosed booklet. Additional copies of this form may be obtained from your district superintendent.		SEND COMPLETED COPIES OF THIS FORM TO: YOUR DISTRICT SUPERINTENDENT FOR TRANSMITTAL TO WASHINGTON BY THE FILING DEADLINE.	
TYPE OF REPORT ☐ INDIVIDUAL SCHOOL ☐ ANNEX			
PART I. IDENTIFICATION			
A. TYPE OF AGENCY WHICH OPERATES THE REPORTING SCHOOL SYSTEM OR SCHOOL			
☐ Local Public School System ☐ Special or Regional Agency		☐ State Education Agency ☐ Other (Specify) _____	
B. SCHOOL SYSTEM IDENTIFICATION (SKIP IF SAME AS LABEL)			
NAME _____			
STREET AND NO. OR POST OFFICE BOX _____	CITY/TOWN _____	COUNTY _____	STATE _____ ZIP _____
C. SCHOOL INFORMATION			
1. IDENTIFICATION			
NAME _____			
STREET AND NO. OR POST OFFICE BOX _____	CITY/TOWN _____	COUNTY _____	STATE _____ ZIP _____
2. GRADES OFFERED (PLACE AN "X" UNDER EACH GRADE OFFERED IN THIS SCHOOL)			
Pre-K ☐	K ☐	1 ☐	2 ☐
3 ☐	4 ☐	5 ☐	6 ☐
7 ☐	8 ☐	9 ☐	10 ☐
11 ☐	12 ☐	Ungraded ☐	Special Education ☐
OCTOBER 1ST ENROLLMENT _____			
3. INFORMATION ABOUT PRINCIPAL (CHECK AS APPROPRIATE)			
IS A PRINCIPAL ASSIGNED TO THIS SCHOOL? ☐ YES ☐ NO		SEX _____	
IF YES ☐ FULL TIME ☐ PART TIME		☐ MALE ☐ FEMALE	
IF FULL TIME, DOES THE PRINCIPAL HAVE A TEACHING ASSIGNMENT? ☐ YES ☐ NO		RACE/ETHNIC IDENTITY (CHECK ONE) (NOT OF HISPANIC ORIGIN) ☐ WHITE ☐ BLACK ☐ HISPANIC ASIAN OR PACIFIC ISLANDER ☐ AMERICAN INDIAN OR ALASKAN NATIVE	

PART II: STAFF STATISTICS AS OF _____

DO NOT INCLUDE ELECTED/APPOINTED OFFICIALS (SEE DEFINITION IN APPENDIX)

SCHOOL NAME _____

(DATE)

SCHOOL ID #: _____

ACTIVITY ASSIGNMENT CLASSIFICATION	OVERALL TOTALS (SUM OF COL B THRU K)	STAFF TOTALS									
		MALE					FEMALE				
		WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	WHITE (NOT OF HISPANIC ORIGIN)	BLACK (NOT OF HISPANIC ORIGIN)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE
A	B	C	D	E	F	G	H	I	J	K	
A. FULL TIME STAFF											
1. Officials, Administrators, Managers											
2. Principals											
3. Assistant Principals, Teaching											
4. Assistant Principals, Non-teaching											
5. Elementary Classroom Teachers											
6. Secondary Classroom Teachers											
7. Other Classroom Teachers											
8. Guidance											
9. Psychological											
10. Librarians/Audio-visual Staff											
11. Consultants & Supervisors of Instruction											
12. Other Professional Staff											
13. Teacher Aides											
14. Technicians											
15. Clerical/Secretarial Staff											
16. Service Workers											
17. Skilled Crafts											
18. Laborers, Unskilled											
19. TOTAL (1-18)											
B. PART-TIME STAFF											
20. Professional Instructional											
21. All Other											
22. TOTAL (20-21)											
C. NEW HIRES (7/1/75 - 10/1/75)											
23. Officials, Administrators, Managers											
24. Principals/Asst. Principals											
25. Classroom Teachers											
26. Other Professional Staff											
27. Nonprofessional Staff											
28. TOTAL (23-27)											
CERTIFICATION: I certify that the information given in this report is correct and true to the best of my knowledge and was prepared in accordance with accompanying instructions. Willfully false statements on this report are punishable by law, U.S. Code, Title 18, Section 1001.											
Date	Phone (Include Area Code)	Typed Name/Title of Person Responsible for Report					Signature				

BEOC FORM MAY 75 / 168B

PREVIOUS EDITIONS ARE OBSOLETE

NEW - OFFICE FOR CIVIL RIGHTS - FILE COPY

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Appendix J

EEOC Complaint Form

COMPLAINT OF DISCRIMINATION IN THE FEDERAL GOVERNMENT BECAUSE OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN (Please Type or Print)			(FOR AGENCY USE)		
1. WHAT IS YOUR (COMPLAINANT'S) FULL NAME?			2. WHAT IS YOUR TELEPHONE NUMBER INCLUDING AREA CODE, IF YOU KNOW IT?		
YOUR STREET ADDRESS (OR RD NUMBER OR POST OFFICE BOX NUMBER)			HOME PHONE:		
YOUR CITY		STATE	ZIP CODE		WORK PHONE:
3. WHICH FEDERAL OFFICE DO YOU BELIEVE DISCRIMINATED AGAINST YOU? (Prepare a separate complaint form for each office which you believe discriminated against you.)			4. ARE YOU NOW WORKING FOR THE FEDERAL GOVERNMENT? ☐ YES (ANSWER A, B, C AND D BELOW.) ☐ NO (CONTINUE WITH QUESTION 5.)		
A. NAME OF OFFICE WHICH YOU BELIEVE DISCRIMINATED AGAINST YOU:			A. NAME OF AGENCY WHERE YOU WORK:		
B. STREET ADDRESS OF OFFICE:			B. STREET ADDRESS OF YOUR AGENCY:		
C. CITY		STATE	ZIP CODE		C. CITY
					STATE
					ZIP CODE
D. NAME AND TITLE OF PERSON(S) YOU BELIEVE DISCRIMINATED AGAINST YOU (if you know):			D. WHAT IS THE TITLE AND GRADE OF YOUR JOB?		
5. DATE ON WHICH MOST RECENT ALLEGED DISCRIMINATION TOOK PLACE: MONTH DAY YEAR			6. CHECK BELOW WHY YOU BELIEVE YOU WERE DISCRIMINATED AGAINST. BECAUSE OF YOUR: ☐ RACE, IF SO, SHOW YOUR RACE _____ ☐ COLOR, IF SO, SHOW YOUR COLOR _____ ☐ RELIGION, IF SO, SHOW YOUR RELIGION _____ ☐ NATIONAL ORIGIN, IF SO, SHOW YOUR NATIONAL ORIGIN _____ ☐ SEX, IF SO, STATE YOUR SEX _____		
7. EXPLAIN HOW YOU BELIEVE YOU WERE DISCRIMINATED AGAINST (TREATED DIFFERENTLY FROM OTHER EMPLOYEES OR APPLICANTS, BECAUSE OF YOUR RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN. (You may continue your answer on another sheet of paper if you need more space.)					
8. (a) I HAVE DISCUSSED MY COMPLAINT WITH AN EQUAL EMPLOYMENT OPPORTUNITY COUNSELOR (See Instructions): ☐ YES ☐ NO			8. (b) NAME OF COUNSELOR:		
9. WHAT CORRECTIVE ACTION ARE YOU SEEKING?					
10. DATE OF THIS COMPLAINT MONTH DAY YEAR			11. SIGN YOUR (COMPLAINANT'S) NAME HERE:		

SEE REVERSE SIDE OF FORM FOR INSTRUCTIONS.

CSC FORM 894
DECEMBER 1972

READ CAREFULLY

- * This form should be used only if you, as an applicant for Federal employment or a Federal employee, think you have been discriminated against because of race, color, religion, sex, or national origin by a FEDERAL agency and have presented the matter for informal resolution to an Equal Employment Opportunity Counselor within 30 calendar days of the date the incident occurred or, if a personnel action, within 30 calendar days of its effective date.
- * Your complaint must be filed within 15 calendar days of the date of your final interview with the Equal Employment Opportunity Counselor. If the matter has not been resolved to your satisfaction within 21 calendar days of your first interview with the Equal Employment Opportunity Counselor and the final counseling interview has not been completed within that time, you have a right to file a complaint at any time thereafter up to 15 days after the final interview.
- * These time limits may be extended if you show that you were not notified of the time limits and were not otherwise aware of them, or that you were prevented by circumstances beyond your control from submitting the matter within the time limits, or for other reasons considered sufficient by the agency.
- * If you need help in the preparation of your complaint, you may contact the Equal Employment Opportunity Officer or the Equal Employment Opportunity Counselor at the office where the alleged discrimination occurred, or you may secure help from a representative of your choice.
- * Your written complaint should be filed by you or by your designated representative with the Equal Employment Opportunity Officer where the alleged discrimination occurred, the head of the field installation, the agency's Director of EEO, Federal Women's Program Coordinator, or other such officials as the agency may designate for that purpose.
- * You may have a representative of your own choosing at all stages of the processing of your complaint.
- * You will have an opportunity to talk with an investigator and give him all the facts which you believe show discrimination. The investigator will not be under the jurisdiction of the head of that part of the agency in which the alleged discrimination took place.
- * After the investigation of your complaint has been completed, you will be given a copy of the investigative file and an attempt will be made by the agency to adjust the matter.
- * If your complaint is not adjusted satisfactorily, you will be given an opportunity to request a hearing, which will be conducted by an independent Complaints Examiner certified by the Civil Service Commission. The hearing will be held at a convenient time and place. At the hearing, you may present witnesses and other evidence in your behalf.
- * The final decision (in writing) will be made by the head of the agency or his designee. If a hearing was held on your complaint, the head of the agency or his designee will review the decision recommended by the Complaints Examiner before making a final decision, and he will furnish you with a transcript of the hearing, a copy of the findings, analysis, and recommended decision of the Complaints Examiner, and the agency's decision letter.
- * If you are not satisfied with the final agency decision, you have the right to appeal that decision within 15 calendar days after receipt to the Board of Appeals and Review of the U.S. Civil Service Commission, Washington, D.C. 20415 or you may file a civil action in an appropriate Federal District Court within 30 days of receipt of the agency's decision. If you elect to file an appeal with the Commission, you may still file a civil action in a Federal District Court within 30 days of the Commission's decision if you are dissatisfied with the decision.
- * You also may file a civil action in an appropriate Federal District Court if you have not received a final agency decision within 180 days of filing your complaint with the agency or if you have not received a final Commission decision within 180 days of filing your appeal with the Commission's Board of Appeals and Review.

PLEASE FILL OUT THE OTHER SIDE OF THIS SHEET